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**CLINICAL PEDAGOGY: A
SYSTEMATIC REVIEW OF FACTORS
INFLUENTIAL IN THE
ESTABLISHMENT AND
SUSTAINABILITY OF CLINICAL
PROGRAMMES AND A GROUNDED
THEORY EXPLICATION OF A
CLINICAL LEGAL EDUCATION CASE
STUDY IN ZIMBABWE**

TRIBE MKWEBU

PhD

2016

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STUDY IN ZIMBABWE**

TRIBE MKWEBU

Dip.Ed; PGDip.BVC; LL.B; LL.M

A thesis submitted in partial fulfilment of
the requirements of the University of
Northumbria at Newcastle for the degree
of Doctor of Philosophy

Research undertaken in the
School of Law

OCTOBER 2016

ABSTRACT

Background/purpose: This thesis investigates the factors that have been influential in either promoting or impeding the establishment and sustainability of clinical legal education in Zimbabwe (Mkwebu, 2015; 2016). Previous work on clinical legal education in other jurisdictions suggest that clinical programmes within law schools can help law students gain practical lawyering skills essential for legal practice. Literature suggests that law clinics have the potential to provide a platform upon which indigent members of the community can access free legal advice. However, the cost of running clinical programmes has been found, amongst others, to be the most influential factor inhibiting the creation and expansion of clinical legal education. Prior to this doctoral study, there had never been any comprehensive study carried out to investigate clinical activity in Zimbabwe. The purpose of this study was to test the hypothesis that, amongst other factors, the resource-intensive nature of clinical legal education is the highly influential factor in the establishment and sustainability of clinical programmes within law schools.

Research methodology: The researcher adopted a systematic search strategy through the review question: *What factors have been influential in the establishment and sustainability of clinical legal education?* The search strategy undertaken between January 2014 and April 2014 resulted in the selection of a batch of 91 journal articles. Articles were analysed using a grounded theory coding system that identified several factors as having been influential in the establishment and sustainability of clinical programmes in other jurisdictions. To gain theoretical sensitivity in the field, the various factors identified from literature generated questions for exploration during fieldwork. Fieldwork commenced in Zimbabwe in May 2015 and lasted for three weeks. The legal aid clinic at Case A has a complement of five members of staff and they all participated in an audio-taped interview process. Transcripts were analysed using grounded theory.

Results and Discussion: An analysis of the selected clinical scholarship identified 20 influential factors. Grounded in the data collected from Zimbabwe were 25 factors that have been influential in either promoting or inhibiting the expansion of clinical legal education at Case A. In general, the identified factors were broadly similar to the various factors identified from the systematic review undertaken before fieldwork commenced. However, the differential impact of factors in the Zimbabwean context was revealed, suggesting a more complex model. **Conclusions:** Firstly, the research findings support the notion that a systematic review is a method with benefits and could be used effectively in the field. Secondly, establishment and sustainability factors have been identified from the systematic review and from the data collected in Zimbabwe. Thirdly, the importance of the local context in the operation of these factors has been verified. Fourthly, sustainability

is fragile and the researcher offers a series of recommendations drawn from literature. Developing receptivity to ideas from other interested stakeholders may be helped by adopting a robust institution-stakeholder partnership that fosters collaboration of ideas for sustainability as a framework.

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GLOSSARY

ABA	American Bar Association
AULAI South Africa	University Legal Aid Institutes
BABSEA-CLE	The Bridges Across Borders Southeast Asia Community Legal Initiative
CLEPR	Council of Legal Education and Professional Responsibility
CLEA USA	Clinical Legal Education Association
CLEO UK	Clinical Legal Education Organisation
ENCLE	European Network for Clinical Legal Education
FOSI	Foundation Open Society's Initiative
GAJE	Global Alliance for Justice Education
IJCLE	International Journal of Clinical Legal Education
LLB	Bachelor of Laws Degree
NGO	Non-Governmental Organisation
NULAI	Nigeria Network of University Legal Institutions
OSISA	Open Society Initiative for Southern Africa
PICO	Patient-Intervention-Comparison-Outcome
PhD	Doctor of Philosophy
PRISMA	Preferred Reporting Items for Systematic Reviews and Meta-Analyses
RP1	Research Participant 1
RP2	Research Participant 2
RP3	Research Participant 3
RP4	Research Participant 4
RP5	Research Participant 5

ACKNOWLEDGEMENTS

First and foremost, my sincere gratitude goes to my Principal PhD Supervisor, Professor Elaine Hall whose supervision of the doctoral research process has been par excellence. It has been an honour and a privilege to have been Elaine's first PhD supervisee in the School of Law, Faculty of Business and Law, University of Northumbria. It would be foolhardy for me not to appreciate her contributions to time, direction and ideas to make my PhD research experience an enjoyable, stimulating and productive one. Even during the times when I cracked up under the pressure of the research process, Elaine always extended her hand to mine and raised me up from the rubble. For that, for motivation and for lifting me onto the research and publishing treadmill, I will always be thankful.

I would like to acknowledge and thank my second PhD Supervisor, Professor Chris Ashford for having freely given his time to read and comment on draft chapters. I thank Jonny Hall for showing interest in my work and for his constructive criticism. The Faculty of Business and Law contributed immensely to the doctoral study. I would not have stepped onto the pedestal of doctoral research had it not been for the PhD Studentship awarded by the Faculty. The past and present members of the Postgraduate research community at the Postgraduate Research Suite in Ellison Terrace, University of Northumbria, were a source of friendship, inspiration, advice and collaboration during the research process. I appreciate the camaraderie of Rachel Dunn who stuck it out with me during my second and final years of postgraduate study. I am especially grateful to the Student Law Office for according me the opportunity for personal and professional growth.

The research findings discussed in the doctoral study would not been possible without the involvement of friends stationed outside the United Kingdom. I gratefully acknowledge and thank Gift Noko and Gladwin Bhebhe for their generosity of time and resources during my challenging period of negotiating with the Zimbabwean authorities for access to the research sites in the jurisdiction. I acknowledge the presence of my friends and my family for their love and encouragement, particularly my brother, Dr Earnest Mukwevho from whom I continue to draw inspiration. Lastly, I would like to thank my patient and loving daughter, Latisha Jane Mkwebu for her encouragement and support during every stage of my PhD. This is for her.

AUTHOR DECLARATION

I declare that the work contained in this thesis has not previously been submitted for any other award and that it is my own work. I also confirm that this work fully acknowledges opinions, ideas and contributions from the work of others. An ethical clearance for the research presented in this thesis has been approved. Approval has been sought and granted by the Faculty Ethics Committee on the **4th April 2014**.

I declare that the word count of this thesis is (84936). The word count excludes tables, references and appendices.

Name: Tribe Mkwebu

Signature:

Date: 27th October 2016

CHAPTER 1 – DOCTORAL RESEARCH INTRODUCTION

1.1 Introduction

This is a study on clinical legal education. Unlike earlier works that have reported on clinical legal education in other jurisdictions, here the focus is primarily on the operation of the law clinic in Zimbabwe. The researcher begins by explaining how his interest in clinical legal education informed his research philosophy; describes mixed methods research and give a brief outline of the analytical and conceptual framework that he has drawn on. Having undertaken a systematic review of literature as a method to select clinical scholarship relevant in answering the research question and using grounded theory as a data analysis tool, the researcher first explores what factors have been influential in the establishment and sustainability of clinical programmes in other jurisdictions. Secondly, using audio data recorded at Case A, an institution of higher education in Zimbabwe with a law faculty that operates a clinical programme, the researcher explores the factors that have been influential in the establishment of the institution's legal aid clinic, describing the recurrent patterns and variations with the various influential factors identified in the surveyed literature. Thirdly, the researcher examines the roles and identities of different stakeholders which are co-constructed through the existence and operation of the legal aid clinic; highlights certain areas of the programme that need to be looked at and addressed urgently for the clinic to continue operating. The researcher makes an argument that if certain practical steps are not urgently taken by the research participants and other stakeholders to sustain the clinical programme, the demise of the legal aid clinic is certain.

1.2 Background to the research problem

The researcher's own interest in undertaking empirical research on clinical legal education was stimulated by the works of various clinicians who came together and put together clinical stories and their own experiences with clinical legal education in different jurisdictions. A book entitled *The Global Clinical Movement: Educating Lawyers for Social Justice*, Oxford University Press, 2011 succinctly describes a global clinical movement in

motion; sweeping across five continents and elucidating the increasingly important role clinical legal education plays in the education of future lawyers.

The book's editor, Frank S. Bloch, in providing the reader with centralised relevant information on the development of the movement, explains:

"...a momentum has begun to develop that has helped sustain existing clinical programs and ease the path toward institutionalizing clinical education. In other words, the global reach of clinical legal education has aided and facilitated its growth and acceptance" (Ibid: xxiii).

To explore this assertion further, using a systematic review of literature and grounded theory nexus, the researcher investigated clinical legal education and found that over the years, clinical legal education has played a significant role in the education of law students through the provision of legal services to members of the community. Law schools with clinical programmes have been in the forefront of legal services delivery with some of their law students providing legal advice and representation to indigent members of the community under direct supervision of their lecturers in live client clinics and under the supervision of a legal practitioner during externships. While England, United States of America, Australia, Canada, India and South Africa saw the development of clinical legal education programmes in the 1960s and the 1970s, other nations, particularly in Africa, started their clinical programmes in the 1990s. When faced with trigger events such as the world recession, lack of financial resources and funding, it is important to understand how such an important experiential programme with unique values and a global reach may respond.

1.2.1 The definitional dimensions of clinical legal education

What counts as clinical legal education can be problematic. Literature review has shown that there is no single definition of the term clinical legal education and it would have been foolhardy for the researcher to stick to a single definition of the concept throughout the whole research process. Clinical legal education can mean different things depending on the context from which the phenomenon under study is located. As a complete novice in research at the commencement of the research, the researcher admits to have carried certain meanings of clinical legal education into fieldwork. Grey literature in the form of information from clinical legal education networks assigns different meanings to clinical

legal education. The same applies to clinical scholarship authors whose journal articles, the researcher reviewed. According to European Network for Clinical Legal (ENCLE) Website, www.encle.org, clinical legal education is a form of service encounter for indigent communities and an educational genre for law students. This network of European clinicians further describes clinical legal education as a legal teaching method based on experiential learning that not only fosters amongst students the growth of legal knowledge, personal skills and values, but also promotes the cause for the advancement of social justice within communities. The Bridges Across Borders Southeast Asia Community Legal Initiative (BABSEA-CLE) Website, www.babseacle.org, defines clinical legal education as a progressive educational ideology and pedagogy that is most often implemented through university programmes. The BABSEA-CLE website goes even further to state that the clinics are interactive and are hands on classrooms that promote learning by doing. Grimes, in Webb J and Maughan, C (Eds.) *Teaching Lawyers Skills* (1996) defines a clinical programme thus:

“a learning environment where students identify, research and apply knowledge in a setting which replicates, at least in part, the world where it is practiced ... It almost inevitably means that the student takes on some aspect of case and conducts this as it would be ... conducted in the real world” (Ibid: 138).

As can be inferred from the definitions of clinical legal education given in this section, clinical legal education can take the form of a variety of clinical activities including simulations in which students learn from a variety of hypothetical scenarios of what happens in legal practice. Examples include moot courts to develop advocacy skills, mock trials with professional actors, client interviewing exercises, negotiation exercises, legal writing and drafting. Even though literature reviewed has indicated that simulation is a type of clinical legal education, the researcher has felt that, for the purposes of a sustained discussion of sustainability, this type of clinical legal education would not further any arguments in that regard. Even though simulation may not be cheaper than lectures, it is relatively less costly and lacks the complexity of live client casework. For the purposes of a coherent discussion on sustainability, the clinical legal education to which the researcher is referring to in this doctoral study is a clinical programme that involves students engaging with live clients and live casework at the university and in the community. The students get supervision for the work they do at the law school and indeed, at any other organisation that is working in collaboration with the faculty of law in the advancement of the cause for social justice. It is in this context, therefore, that the researcher narrows his focus for discussion only on certain resource-intensive clinical

activities such as live client clinics and street law regardless of the model they have taken, i.e. individual service, specialisation or community.

Following on from his fieldwork experience and having undertaken a thorough analysis of the data collected from Zimbabwe and presented in Chapter 7, for a moment, the researcher took a step out of the research process and reflected on these meanings assigned to clinical legal education. He established that these definitions miss out certain aspects of experiential learning that the researcher considers crucial in sustaining a clinical programme. Whilst the definition given by the ENCLE website seem to encompass the education and social justice mission of clinical legal education, the definitions given by BABSEA-CLE and Grimes lack the social responsibility aspect of clinical legal education. As if these gaps were not enough, the three definitions have all missed making a reference to the research-intensive nature of running a clinical programme. As such, the researcher's own definition of clinical legal education would be, thus: *Clinical legal education is a resource intensive clinical pedagogy that not only bridges the gap between legal education and professional skills but also promotes access to justice.*

Therefore, there can never be a single definition universally applied to clinical legal education. It is possible to find one law school with a clinical programme different from clinical activities at another law school. This is perhaps the reason why there is the use of different terminology to describe clinical legal education. The research findings in Chapter 7 indicate that in Zimbabwe, clinical legal education is in the form of a 'legal aid clinic' and a yearlong externship programme whereas at the University of Northumbria, the clinical programme is in the form of a Student Law Office. The term 'legal aid clinic' seem to denote a service element that is more emphasised than the teaching and learning of skills and yet the research participants in Zimbabwe, whilst appreciating the role of clinical legal education in promoting justice, stated that they viewed their clinical programme more as an education tool than anything else. This is also evident in the literature selected in Chapter 3 and reviewed in Chapter 4. What this means is that clinical legal education can be referred to in different terminology such as, for example, 'clinical programme'; 'student law office'; 'law clinic'; 'legal aid clinic' etc. It is in this context that the researcher has used some of these terms interchangeably throughout this doctoral study so as not to confuse the reader but to show that they mean one and the same thing as evidenced not only by the literature reviewed but by the voices of the study's research participants.

1.2.2 Conceptualising sustainability

The understanding of the word sustainability in clinical scholarship seems to be problematic. Except for Giddings (2013) who has given an analysis of what fosters *sustainability* in clinical legal education, most authors and clinicians shy away from explaining the concept. No meaningful definition of sustainability or an attempt at defining the word in relation to clinical legal education is given in the reviewed clinical scholarship. This is however not surprising. There is no universally agreed definition of what sustainability means. Even definitions from dictionaries seem to be lacking in finding a suitable meaning. The Cambridge English Dictionary defines sustainability as the ability to continue at a level for a period. This definition would certainly not be universally accepted in the field. However, it does raise one of the most difficult problems of the concept of sustainability that has eluded Giddings (2013) in his book and that which the reviewed clinical scholarship has seldom addressed, i.e. *time frame*. The question is: *Is a sustainable clinical programme one that must endure for 5 years, a decade, a human life or a million years?* We certainly do not need clinical programmes that only run for a certain period. Different stakeholders such as for example, the legal profession, academics, clinicians, students and the community would certainly want continuity, flexibility and development of clinical legal education. Perhaps, the lack of any definition of sustainability in clinical scholarship lies in the difficult that comes with trying to define the word any differently from its common definition that must do with the environment and sustainable development. The World Commission on Environment and Development report [accessed from <http://www.un-documents.net/ocf-02.htm> on 5th December 2013] defines sustainability, thus:

“...the ability to meet the needs of the present while living within the carrying capacity of supporting ecosystems and without compromising the ability of future generations to the meet their own needs.”

However, since then, there have been many variations and extensions on the basic definition of sustainability. One definition that the researcher felt it struck a chord with clinical legal education is another version given by the same Commission in 1987. The Commission defines sustainability as a:

“... process of change in which the exploitation of resources, the direction of investments, the orientation of technological development and institutional change are all in harmony and enhance both current and future potential to meet human needs and aspirations.”

This definition addresses the most pressing questions, priorities and challenges to the creation and sustainability of a clinical programme both in Zimbabwe and globally. To sustain a clinical programme, the goal must be to integrate the programme's objectives, principles, values and practices of sustainability into all aspects of legal education, professional skills, legal service delivery, organisational management, human and financial resource management. At its most basic, such collectiveness, collaboration, service delivery and education efforts will encourage changes in human and financial resource behaviour among different stakeholders that will create a more sustainable future in terms of pedagogical integrity, viable service delivery and a just society for the present and future generations of law students and service users. Clinical scholarship has touched on sustainability protocols but most authors have a very narrow view of what this looks like and what it means in the field. What we need is a new definition of sustainability that reflects the current funding regime from what it is used to be in the 1960s and the 1970s as stated in the next section. During this period, clinics were sustained from a constant flow of funding. Funders are now changing their funding criteria, sometimes to the extent of offering ring-fenced funding that takes away the independence of clinical programmes. This must surely lead to a real clinical legal education funding drive for a new kind of sustainability to be at the core of what a true law clinic ought to offer. To a certain extent, the researcher concurs with Giddings (2013: 31) in the latter's analysis of what fosters sustainability and when the author suggests that "clinical programs can benefit from articulating clear program objectives and then going through the challenging process of prioritising objectives." The researcher argues that these practices are expected as standard. Rather a much wider interpretation of sustainability is now demanded particularly for clinical programmes that face demise once the current funding streams dry up as per the example given in Chapter 7 and discussed in Chapter 8. The possibility of the clinic under discussion drifting into obsolete is real and its ultimate survival will certainly lead to a new sustainability mind-set that draws from the original working practices of funders stated in the next section.

1.2.3 The history and emergence of clinical legal education

Literature reviewed has indicated that the first wave of clinical legal education swept through the United States in 1960s because of the social issues during that time and right through the 1970s. Clinical scholarship has revealed that the Vietnam War, poverty issues, the demand for women's rights and civil rights led to an increased student activism that culminated in demands for the extension of provision of free legal advice and

representation to indigent communities. Legal services in areas such as women's rights, consumer rights, poverty and environmental protection saw the birth of clinical legal education funded by the Ford Foundation through the Council of Legal Education and Professional Responsibility (CLEPR). By distributing financial assistance to law faculties to set up clinical programmes within law schools, CLEPR laid the foundation for the birth of the global clinical movement, as we know it today. Credit should go to CLEPR for having influenced the formation of many organisations and networks of clinicians. They include the Association of University Legal Aid Institutes (AULAI South Africa); the Network of University Legal Institutions (NULAI Nigeria); the Clinical Legal Education Association (CLEA USA); the Clinical Legal Education Organisation (CLEO UK); the Global Alliance for Justice Education (GAJE); the International Journal of Clinical Legal Education (IJCLE) and the European Network for Clinical Legal Education (ENCLE). Partly, because of the activities of these organisations and networks, clinical legal education and scholarship continues to grow as a global clinical movement with clinical programmes in Canada, Australia, the UK, and certain parts of Asia and Africa as highlighted in Chapter 3 and discussed in Chapter 4.

1.3 Purpose of undertaking empirical research on law clinics

Knowing that there was already a substantial body of work not only on the benefits of clinical legal education but also on those various factors we ought to consider influential in either promoting or impeding the establishment and sustainability of clinical programmes within law schools, the researcher wished to explore the clinic debate further. He desired to do so in a context that would not only put Zimbabwe on the map of clinical legal education but would go further to satisfy the researcher's preference for an empirical research. The research process might eventually be of practical value to the expansion of clinical legal education in Zimbabwe and subsequently contribute immensely to the global clinical movement and the body of clinical scholarship. Despite the recognition of the importance of clinical legal education in educating our law students and promoting social justice in our communities, reporting on clinical activity in Africa remains minimal. There has been a limited uptake of empirical research of the phenomenon in the region as pointed out in Chapter 4. Clinical scholarship is lacking on empirical research on the perspectives of other stakeholders such as the students and the community served by the clinic. With regards to sustainability strategies, Maisel (2007) has suggested that it is of paramount importance that certain financial and human resources strategies are taken into cognisance when establishing and sustaining clinical programmes particularly in

developing countries, but we are still yet to see evidence of whether such strategies have worked in some clinics in Africa. Despite the growing interest in reporting on clinical legal education in other jurisdictions, there had been no specific study of clinical legal education in Zimbabwe, hence this doctoral study.

1.4 Statement of the research problem

This research is an investigation on how different factors influence the establishment and sustainability of clinical programmes from a Zimbabwean context. It addresses the prospect of an increasing focus on clinical programmes designed to prepare law graduates for their entry into legal practice. Nevertheless, certain factors are deemed crucial in sustaining clinical legal education in Zimbabwe as discussed in Chapter 8.

1.5 Significance of the research

Despite the occasional mentioning of the existence of clinical legal education in Zimbabwe since the 1980s (Smith, 1985), the researcher's knowledge claim from the inception of the doctoral study was that there was lack of relevant and extensive study into the current dynamics and philosophies of legal education in Zimbabwe. This doctoral study aimed at filling that gap by identifying those influential factors research participants thought were relevant in the establishment and sustainability of their clinical programme at Case A. By undertaking a systematic review of literature to select journal articles and using a grounded theory method to analyse textual data, the review drew out themes and questions used in shaping the research that led to the emergence of a more robust and integrated theory as presented in Chapters 7 and discussed in Chapter 8. The research outcome breaks new ground as the first piece of research whose methodological approach has included an undertaking of a systematic review of clinical legal education. Chapter 3 reports on the techniques of mapping the field using a systematic review of literature by giving a quantitative description of what researchers, authors, clinicians and academics must work with in the field. The doctoral study has gone further to contribute to scholarly knowledge by identifying knowledge gaps in literature as highlighted in Chapter 4 particularly on measuring student enthusiasm to clinical pedagogy and the extent to which we engage with the community and encourage indigent community participation in legal service delivery through a clinical programme. Furthermore, the doctoral study has

already supported and embedded pathways to impact through publications of a book review (Mkwebu, 2014) and peer-reviewed journal articles developed from certain chapters of the thesis (Mkwebu, 2015; 2016).

1.6 Research justification

Firstly, the originality of this thesis creates and sustains the researcher's voice not only in encouraging clinical scholarship writers and researchers to use systematic reviews when researching in the field but also in making them aware that, for the first time, we now have a centralised map of factors in the field. Therefore, there is no longer a need for anyone in the field to go through tens of thousands of journal articles searching for knowledge on why clinics start and how they last. Instead, the researcher invites writers and researchers alike to replicate the map he created on the influential factors we ought to take into consideration when planning to create new clinical programmes or indeed in sustaining those that are already in existence. The innovation and pioneering of a systematic review of literature in the field is therefore a contribution to scholarly knowledge. Secondly, this research is the first comprehensive research ever carried out on clinical legal education in Zimbabwe. It contributes to knowledge and the development of clinical legal education within Zimbabwe and the global clinical movement. It contributes to the strengthening of access to justice for all. Thirdly, whilst the PhD was written for a relatively specialist audience of scholars and advanced students in the field of clinical legal education, it is important to bear in mind any 'crossover' or interdisciplinary appeal the research might have. It is also important to bear in mind that the audience for this doctoral study might have wider research interests than the researcher and may even benefit from the methodological processes that were involved in the systematic review. More specifically and practically, the research should help clinicians, legal practitioners, law students and the ordinary members of society understand the benefits of clinical programmes even further. Academically, the research provides a source of reference for the current dynamics of clinical legal education research in Zimbabwe and lays a foundation for further research and the exploration of factors relevant in the establishment and sustainability of clinical programmes.

1.7 Empirical research question

To investigate the extent to which the various factors identified as influential in the reviewed literature compared against the research findings, the researcher formulated the following research question to drive the research process: ***What factors are influential in the establishment and sustainability of clinical legal education programmes in Zimbabwe?***

1.8 Systematic review question

Because of the enormous amount of written material on clinical legal education, the researcher used the following review question to search for and select relevant journal articles: ***What factors have been influential in the establishment and sustainability of clinical legal education?*** To be able to answer this review question, it was necessary first to formulate a review protocol as presented in Chapter 3. Chapter 4 presents grounded theory devices used to analyse the data from clinical scholarship.

1.9 Research methodology

Situating this research project in the literature was by no means an easy task. This doctoral study was a cycle and the process of grappling with the voluminous literature on the subject was an evolutionary one. It was not easy identifying where this research fitted within the law clinic literature particularly when the researcher had religiously followed the works of renowned clinicians such as David Mcquoid-Mason, Frank Bloch, Jeff Giddings, Richard Grimes, Cathy Sylvester, Kevin Kerrigan, Elaine and Jonny Hall, amongst others. The researcher found all these authors' work fascinating and compelling but voluminous too. He immediately undertook the task to systematically engage with tens of thousands of journal articles to select only that which was relevant to his research question.

1.9.1 Response to an explosion of clinical scholarship

Undertaking a formal and systematic review of literature played a significant role in this doctoral study. As shall be seen in Chapter 3, the process was a mammoth task that required a coon's age of focused effort to complete. Even though the researcher endured almost 6 months of laborious and tedious construction of the review, it later became apparent that the exercise was a wise investment of time. Further, the review exposed main gaps in knowledge as presented in Chapter 4.

The explosion in clinical legal education publishing made keeping up with primary research evidence an impossible feat as the number of published studies ran into several thousands. When taken together within a systematic review, a clearer and more consistent picture emerged using online databases allowing the researcher to assess studies he retrieved; combined the results of the search and placed the findings in context. A systematic review and grounded theory nexus generated themes and areas for exploration that later informed the design of the interviews to be carried out with key participants in Zimbabwe through a case study methodology which also involved observation of the research site and examination of certain documents that did not yield any different information from that which was given by the research participants during the interview process as discussed in Chapter 5. Through grounded theory principles espoused by Strauss and Corbin (1990, 1998), the data from Zimbabwe was analysed using a coding system that is introduced in Chapter 4 and explained in detail in Chapter 7.

1.9.2 Towards a pragmatist philosophical stance

The adoption of the quantitative and qualitative methods provided more flexibility; allowed greater spontaneity and adaptation of the interaction between the researcher and the study participants. The ability to combine the tenets of quantitative and qualitative paradigms is what set the researcher to take a pragmatist research philosophy stance as argued in Chapter 2. While the methods of empirical legal research are many, the researcher chose the ones highlighted here because they focus on the practicalities of law rather than its doctrines. From an empiricist's point of view, clinical legal education is law in the real world and outside the immediate world of cases and statutes. Therefore, research into the factors influential in the establishment and sustainability of clinical programmes in Zimbabwe could only be achieved by combining a quantitatively driven review process with a qualitatively driven and integrated case study and grounded theory

research process which encompassed a mixture of empirical research methods, each with its own considerations.

1.10 Ethical issues considered

The interview approach adopted for this research raised ethical issues as it entailed a subjective evaluation of the research programme. Some participants may not have felt free to participate in this type of research for socio-economic-political and cultural reasons. To combat such fears, the research underwent a process of ethical approval at the Faculty of Business and Law, University of Northumbria, United Kingdom. All interviewees were informed about the purpose of the research to make them understand the risks they might have faced because of being research participants and the benefits that might accrue to them because of participating in the research. Consent forms were used to safeguard confidentiality. The researcher played such a direct and intimate role in both data collection and analysis (Corbin-Dwyer and Buckley, 2009). The researcher's role was formulated because of an understanding that whether the researcher was "an insider, sharing the characteristics, role or experience under study with the participants or an outsider to the commonality shared by participants, the personhood of the researcher, including his or her membership status in relation to those participating in the research, is an essential and ever present aspect of the investigation" (Ibid: 55). This research adopted the notion of 'the space between' allowing the researcher to occupy the position of both 'insider and outsider' rather than 'insider' or 'outsider' stance. Practically, the researcher intentionally used his fluid identity as a fellow native, lawyer, teacher and researcher to build trust, sustain a good researcher-researched relationship that is germane to field work research.

However, as stated in Chapter 6, the researcher gave no guarantees to confidentiality because the sample was small and from a single case and as such, could be easily identified. There are three law schools in Zimbabwe. One does not have a clinical programme yet. Efforts to gain access to the other institution never came to fruition. The multiple-case study approach that the researcher had hoped for did not materialise. Hence, the research inadvertently took the single case study route. Case A has five members of staff working at the legal aid clinic. The faculty has a complement of 26 faculty of law academics. Only five clinicians work at the legal aid clinic. They were all interviewed. The ethics of using human participants who could be easily identified became a critical issue of the research process that needed to be addressed with each research

participant before any consent forms could be formally signed. However, the research participants felt that the research on clinical legal education from a Zimbabwean perspective was crucial to the expansion and sustainability of their clinical programme. They assured the researcher that they understood the implications of taking part in the research process. Nevertheless, even though they understood that confidentiality could not be guaranteed they decided that they would be agents of the research process. In their words, the fear of identification and the fact that the researcher could not guarantee confidentiality were not good reasons to prevent them from being agentic partners of a research process they felt was so crucial to the existence of their legal aid clinic. Consequently, the interviews proceeded on that basis.

1.11 An overview of thesis chapters

This thesis consists of eight chapters. In this chapter the researcher has:

- Introduced the conceptual and analytical frameworks on which the doctoral study is based;
- Outlined the development of his interest in clinical legal education particularly the factors that are influential in either promoting or inhibiting the expansion of clinical programmes;
- Provided the context and background information about clinical legal education;
- Indicated what he set out to achieve in this doctoral study by undertaking an empirical research on the operation of the law clinic in Zimbabwe.

Structurally, the remaining 7 chapters are divided, thus:

Chapter 2 states the researcher's philosophical stance; his ontological and epistemological perspectives within a mixed methods research design and the pragmatic worldview he adopted. Chapter 3 defines and sets the framework for the research by outlining the literature search strategy used for identifying clinical scholarship relevant to answering the research question using a systematic review and grounded theory nexus. The choice of literature reviewed systematically in Chapter 3 forms the conceptual framework and the basis upon which a critical account is given in Chapter 4 as the researcher contextualises the doctoral study. Chapter 5 introduces and justifies the research methodology and methods chosen to carry out the research on clinical legal

education. The chapter provides an outline of the case study research design that integrated a grounded theory method as a qualitative data analysis tool the researcher used in the final analysis of field data collected from Zimbabwe. In Chapter 6, the research experience and difficulties encountered in gaining access are described. Chapter 7 provides a detailed analysis and presentation of the research findings. Finally, in Chapter 8, the meaning, implications, importance and relevance of the doctoral study findings for clinical pedagogy methodologies are considered in the context of existing literature on clinical legal education. Underpinning the whole study, doctoral study limitations are highlighted in the concluding chapter including suggestions for areas of further exploration. In concluding the thesis, and having been initially influenced by his pragmatic approach to research which he turns to in the next chapter, the researcher constructs and suggests certain recommendations for law clinic sustainability at Case A.

CHAPTER 2 – EPISTEMOLOGY AND RESEARCH DESIGN

2.1 Introduction

This chapter describes the stages of a research process in which the researcher set out to develop a research strategy to achieve the aim and objectives of the doctoral study stated in the previous chapter. Trying to classify research philosophies such as *ontology*, *epistemology* and *axiology* and their different and antagonistic applications to the qualitative and quantitative paradigm debates was a major source of anxiety for the researcher. The engagement with several studies on research methods, each proffering different descriptions and classifications of research philosophies in relation to doctoral research, brought episodes of unbearable frustration in establishing the relevance of these philosophies to this research on clinical legal education. Occasionally, the researcher had moments in which he took a step out of his study and questioned whether novice researchers should have to go through the pain and “tautological confusion of what is rooted where, and according to whom” (Mkansi and Acheampong, 2012: 132).

The researcher’s encounter with the interchangeable use of research terminology such as ‘*epistemology*’, ‘*theoretical perspectives*’, ‘*methodologies*’, ‘*methods*’, ‘*approaches*’, ‘*strategies*’ and ‘*techniques*’ all “thrown together in grab-bag style as if they were all comparable terms” (Crotty, 1998: 3) was unbearable. The ongoing debates not only created a dilemma for the researcher, but “raises a critical question of whether these opposing views are enriching knowledge or subtly becoming toxic in the field” (Ibid). The initial confusion for the researcher was heightened by the fact that there are several studies debating on research philosophical stances. Different methodologists (Saunders et al., 2009; Ritchie and Lewis, 2003; Guba, 1990 and Guba and Lincoln, 1989) proffer different descriptions, categorisations and classifications of the research philosophies and paradigms. Trying to fit the different descriptions, categorisations and classifications to this doctoral study was not an easy task. Although the authors’ definitions of ontology, epistemology, and axiology do have a common theme with a bit of difference in meaning and emphasis on certain aspects of a research process, there seem to be no consensus in the classification and categorisation of research philosophies and paradigms. It had never been the intention of this doctoral study to join in these seemingly never-ending philosophical differences and provide further dimensions to the paradigm debates other than consider the impact the debates have had on the research process. The actual

practical encounter with the paradigm confusion is what made the researcher become aware of his ability to be innovative and make decisions that allowed an adoption of ways that he felt worked best for him in pursuit of answers to his review and research questions.

Debates revealed an evolutionary process from earlier works (Burrell and Morgan, 1979; Guba and Lincoln, 1989; Guba, 1990) presenting, describing and categorising research paradigms to recent philosophical studies (Saunders et al., 2009; Ritchie and Lewis, 2003). Interestingly, the works of the recent methodological scholars such as Ritchie and Lewis' (2003) description, categorisation and classification of ontological and epistemological perspectives, is different from the works of Saunders et al. (2009). Ritchie and Lewis's (2003) ontological perspective include realism; materialism, critical realism, idealism and relativism; and the epistemological perspective include positivism and interpretivism. On the other hand, Saunders et al., (2009) and Guba and Lincoln (1994) indicate a perspective that views philosophies (i.e. positivism, realism, interpretivism, and pragmatism) from an ontological, epistemological and axiological stance. An even overlapping classification of these philosophies is that of Guba and Lincoln (1989) whose stance links positivism, post-positivist, and constructivist to critical realism. A further example in the context of philosophy is pragmatism. However, these philosophies are not entirely different. They all share a common set of assumptions, and their commonalities identify these philosophies as examples of broader philosophies. However, whilst they share critical assumptions, they emphasize very different implications of those assumptions and while they all focus on explaining methodological differences in research, they adopt different categorisation and classification. Given these differences and the dilemma they cause for novice researchers, it is not surprising that there is now a community of scholars who have since recognised the potential adverse impact on research students and call for a concerted effort to standardize the philosophies (Mkansi, and Acheampong, 2012).

Although there are distinct research traditions, each of which has its own tenets and consistent systems of operation, there was neither a single rule nor a single right way in which the researcher needed to adhere to. The researcher aimed at achieving some clarity of the knowledge claims he made in this doctoral study. The researcher's philosophical stance was not influenced *per se* by persuasion from the ongoing paradigm debates but more by a realisation of the confusion that ensues thus. Considering different pathways was necessary to the extent of establishing that different philosophies and paradigms exist. Since research philosophies and paradigms are not fixed, it would have been foolhardy for the researcher to adhere to a single paradigm and in the process, lose

the opportunity for innovation that he found in combining different ideas and mixing methods in pursuit of knowledge. The researcher interlocked research philosophy choices to represent his choice of design as he set out to identify factors that have been influential in the establishment and sustainability of clinical programmes in other jurisdictions and latterly in Zimbabwe.

2.2 Unpacking the doctoral research philosophy

Even though the researcher would not hesitate to join calls for a concerted effort to standardize the research philosophies and paradigms, it was good practice for him to have had clearly outlined the basis for claiming to know what he knew about clinical legal education (Kuhn, 1970) in Zimbabwe. The first stage in formulating the research design was the need to articulate the researcher's ontological perspective on whether he saw the world as objective or subjective or indeed as something between the two poles. Since *ontology* is defined as the study of *being* or *reality* (Saunders et al., 2009) it is concerned with the nature of reality and raised questions of the assumptions the researcher had about the way the world operates, the commitment he held to worldviews (Ibid) and how he viewed reality. *Objective* and *subjective* poles are two fundamental configurations dividing ontological assumptions. The ontological assumption in quantitative research views reality as objective, the study is independent of the researcher and portrays the position that social entities exist externally to social actors concerned with their existence (Saunders et al., 2009). This can be measured by using questionnaires or another instrument such as, for example, a systematic review of literature. Following the identification of factors that have been influential in the establishment and sustainability of clinical programmes in other jurisdictions, an *objective perspective* might be looking at the reality of clinical activity in Zimbabwe as made up of those factors that were identified from the systematic review of literature.

The solid objects in the form of 20 factors identified from an analysis of the selected journal articles as described in Chapter 4 could be measured or tested even though the researcher was not directly perceiving or experiencing them. An objective perspective would therefore allow that following the identification of certain influential factors in the creation and sustainability of a law clinic, whatever we would then decide to do in trying to understand what sort of factors were influential in the establishment of clinical legal education in Zimbabwe would still bring up the same answer as that obtained from the systematic review. On the contrary, a *subjective perspective* would look at reality as made

up of opinions, perceptions and the interactions of research participants and different stakeholders in the field of research. It would have been foolhardy to conclude that factors that have been influential in the creation of a clinical programme in the United Kingdom, for example, were the same factors that have been influential in Zimbabwe without having undertaken empirical research and interviewed research participants. An *objective ontology* would thus assume that the reality of clinical legal education in Zimbabwe exists independently of the researcher's comprehension and that it was possible to have established and explained the terrain of the positive and negative aspects of clinical legal education in Zimbabwe through the identification of the 20 factors. This would have created an oversimplification of the influential factors that might be specific-context to the Zimbabwean clinic.

A *subjective ontology* on the contrary, assumes that opinions, views and perceptions give shape and form to reality. The various factors identified from fieldwork in Zimbabwe and presented as research findings in Chapter 7 are facts that came out from a research site that was culturally and historically located and therefore subject to the experiences of the research participants. The interpretation of the clinical activity in Zimbabwe came from the perspective of the researcher and the research participants as discussed in Chapter 8. The fact that research participants gave interviews that expressed their own experiences of the phenomena in Zimbabwe as shaped by a context that is dissimilar to contexts in other jurisdictions, is a clear proof of the existence of multiple realities. The subjectivity of the research participants in Zimbabwe was entirely different from that of the various authors whose articles the researcher reviewed yet the researcher needed a certain objectivity [a systematic review of literature] to make a universal claim for a subjective ontology [research findings in Chapter 7]. This is a weakness of the subjective ontology. Without testing factors that were identified from a review of literature against the findings of the fieldwork in Zimbabwe, the researcher would not have ever known whether they are applicable in that jurisdiction. The writers of the selected clinical scholarship had a reality that is separate from the reality that was inhabited by the research participants. However, an attempt to find a resolution to this dilemma is outside the remit of this doctoral study.

What needs to be stressed is that questions of objective and subjective ontology will continue to fuel philosophical debate. Nevertheless, the fact that the doctoral study's subjective ontology required a certain objectivity to make knowledge claims about the clinical programme in Zimbabwe not only confirmed that objective ontology and subjective ontology are not mutually exclusive but also positioned the researcher between the two stances as he tried to relate his research to each one of them. Following on from a discussion of ontology in which the researcher considered the question of *what* is it that

he knows about the world of clinical legal education, it became incumbent upon him to make decisions about *how* he would go about getting to know the world of clinical legal education in Zimbabwe and indeed in other jurisdictions.

Epistemology questions the assumptions of what is acceptable as knowledge and that which constitutes an acceptable knowledge in a field of study (Saunders et al., 2009). For this doctoral study, epistemology concerned the way in which the researcher set out to obtain valid knowledge about clinical legal education in Zimbabwe. Two epistemological positions were considered for this study, i.e. *positivist* and *interpretivist* although there are others such as critical realist and action research, for example. The following narrative articulates the researcher's epistemological position in relation to *positivism* and *interpretivism* to define the ways in which he arrived at certain decisions on what constituted reliable knowledge about clinical legal education. For instance, if the researcher had been asked: *What factors have been influential in the establishment and sustainability of clinical legal education and guessed it right by listing the 20 factors that were identified from an analysis of the selected scholarship, would that guess be reliable knowledge? Should a guess of the 20 influential factors stand or should they be verified? Would identification of these factors represent confirmation of the factors that have been influential in the creation and sustainability of the law clinic in Zimbabwe?*

The importance placed on the verified accuracy of the applicability of the 20 factors to the Zimbabwean context would depend upon the context in which that confirmation is needed. By being clear about the way in which valid knowledge was collected in Zimbabwe, the researcher was in turn providing clarity about the nature of the knowledge claims that he made when he set out to investigate and unpack the Zimbabwean clinic. For example, the observation that, prior to this doctoral study, there had never been any comprehensive study on clinical legal education in Zimbabwe is a form of knowledge claim that was verified by a systematic review of literature. Another example was that the most influential factor in the establishment and sustainability of a law clinic, above all others, is its resource-intensive nature. Such a knowledge claim might attract an engagement in debate as to the validity of the claim citing other factors that might influence the expansion of clinical programmes such as, for example, collaboration between stakeholders and priorities of the institution housing a clinical programme.

To develop valid knowledge about the clinic in Zimbabwe two opposing epistemologies were considered in relation to objective ontology which aligns to a *positivist epistemological* approach and subjective ontology which aligns to an *interpretivist epistemology*. Research that expresses an objective ontology with a positivist epistemology approach is usually associated with studies that follow a quantitative

paradigm whereas research that expresses a subjective ontology with an interpretivist epistemology is associated with a qualitative paradigm. The researcher conducted a piece of research for which he initially thought was going to be purely qualitative with no need to align the research to any theoretical frameworks. However, because of the reading he did which identified certain influential factors as influential in the creation and sustainability of clinical programmes and having also established that, at the time, there was no evidence of any research on clinical legal education from a Zimbabwean context, he ended up developing a theoretical map of factors containing a specific hypothesis which he tested by undertaking empirical research in Zimbabwe.

Even though a hypothesis that the availability of financial and human resources is the most highly influential factor in either promoting or inhibiting the establishment and sustainability of clinical programmes within law schools may seem like a general hypothesis for any educational endeavour, it was important that this and other relative factors were tested against the research findings in Zimbabwe for the same reasons given in Chapter 1. By formulating a hypothesis at an earlier stage of his research, the researcher was making his research reflect the principles of positivism and probably adopting a philosophical stance of a naturalist scientist. What the researcher gathered from the selected clinical scholarship were factors on the positive and negative aspects of clinical legal education which he used to develop a hypothesis that could be tested using data collected from Zimbabwe. He therefore set to undertake empirical research to determine the extent to which the hypothesis could be confirmed, in whole or in part, or refuted, leading to further investigation of the phenomenon.

Having identified factors from clinical scholarship using positivist methods, the researcher followed that up with an *interpretive epistemology* to test the identified factors and opened his mind to any factors that could have come up as context-specific to Zimbabwe. He entered the social world of the research participants in Zimbabwe and used three data sources in the form of semi-structured interviews; examination of documentary evidence and his own observations of the research site. Even though it could have been still appropriate for the researcher to choose between the qualitative and quantitative orientations, it was important to consider the role values play in a research process (Saunders et al., 2009). The rationale behind this being that sitting comfortably in one orientation or the other would not have been ideal as the research question required the combination of quantitative method in the form of a systematic review of literature with a qualitative method in the form of a grounded theory strategy in answering it. It is against this background therefore that the researcher combined the positivists and interpretivists positions for the successful completion of the research.

The researcher recognised that the social world of clinical legal education was far too complex to lend itself to theorising by definite laws in the same way as the physical sciences. He recognised that if the 20 factors he identified from clinical scholarship were reduced entirely to a series of law-like generalisations as to the complete and applicable factors, then he could have easily lost a rich insight into how clinics are established, how clinical legal education was established in Zimbabwe and how it is kept in existence. The exploratory testing of the 20 factors identified from clinical scholarship, at the European Network for Clinical Legal Education (ENCLE) event, hosted by the Faculty of Business and Law at the University of Northumbria at Newcastle in April 2015 presented an opportunity to validate the researcher's ontological and epistemological perspectives. *Critical realism* is a relatively recently articulated epistemological position derived from both objective ontology and subjective ontology. The researcher's ontological and epistemological perspectives were useful in that they provided him with a reflective framework upon which he could describe reality. However, the ENCLE event presented an opportunity for him to create reality by seeking delegates to the event to question the researcher's ontological and epistemological perspectives and his description of reality through his presentation of the 20 factors identified from literature. The interactive session was to gauge the extent to which the researcher's methods of gaining knowledge were effective or ineffective. The data gathered through an interactive session run by the researcher created theoretical frameworks that had positivist and non-positivist stances. The frameworks are reported in more detail in Chapters 4 and 7.

A component of the positivist approach to research is the undertaking of research in a value-free way which may, in the first instance, appear plausible in so far as minimising bias is concerned. The positivist assumption is that "the researcher is independent of and neither affects nor is affected by the subject of the research" (Remenyi et al., 1998: 33). From an *axiological perspective*, this is contrasted with the interpretivist value-laden way of undertaking research which comes with bias and is unavoidable. A complete freedom from the inclusion of own values as a researcher is nearly impossible. Even a researcher who seeks to adopt purely a positivist position in conducting research exercises some form of choice in deciding what to study; in formulating the aims and objectives of the study and indeed, in the collection of data. Choices must be made with regards to the location; the timing and the methods. The systematic review of literature was a highly structured methodological process used to facilitate transparency and replication (Gill and Johnson, 2002) and is a good example of a positivist characteristic at play in this doctoral study. Yet it was perfectly possible for the researcher to use largely qualitative methods, such as case study strategy to test the hypothesis and grounded theory as a tool to analyse the findings from Zimbabwe. His choice of a philosophical approach reflects the

value he placed on the doctoral study. Conducting research where the researcher placed great importance in data collected through an interview process might suggest that he valued personal interaction with research participants more highly than their anonymous views expressed through a questionnaire or survey data. Yet, he also recognised that making quantifiable observations that could lend themselves to a statistical analysis of the papers selected for the review was crucial for research that could easily appear, in the first instance, as purely qualitative and inductive. Throughout the whole process of axiological consideration, the researcher kept himself on a reflexivity leash in which he self-consciously guarded against any biases that he might have brought to the doctoral study on the commencement of the research process. Even though personal subjective experiences were initially central to the choice of a qualitative research paradigm with an interpretivist approach, the researcher set out to conduct an empirical research whose findings would have value and practical consequences. It was therefore natural for him to adopt the philosophy of *pragmatism*, albeit with a small [p].

The researcher once again took a step outside the research process at the commencement of the doctoral study to reflect on how the research was to proceed: He engaged in an internal monologue. The nagging voice questioned, thus: *Is the doctoral study primarily going to be inductive at discovery? Does it need to move from data to theory? Is the doctoral study going to be deductive in testing hypotheses? Will it move from theory to data?* Upon emerging from this verbal stream of consciousness, the researcher established that his research involved both deductive and inductive approaches. The researcher considered the different ways in which he could approach his doctoral study if he were to adopt the *deductive approach* and the inductive approach. By undertaking a systematic review of literature and using grounded theory to analyse the largely quantitatively selected clinical scholarship, the researcher adopted a deductive approach by starting with a hypothesis and making decisions as to who to interview to test the hypothesis. By formulating interview questions and preparing to interview clinicians in Zimbabwe to find out the extent to which the knowledge claim could be confirmed or refuted in part or in whole, the researcher adopted an *inductive approach* to generate a new theory emerging from data. Neither approach was better nor worse than the other. They were both good to adopt at different things and stages of the doctoral study. The most important determinant of which philosophical stance to adopt was the research and review questions (Creswell and Plano Clark, 2007; Saunders et al., 2009). A mere look at the questions suggested that neither an interpretive nor positivist philosophy would be appropriate in answering the research question if used as a single approach for the entire research process. In this doctoral study, the researcher has presented pragmatism as a current practical world thinking strategy he adopted to fulfil the aim and objectives of his

research. The philosophy he adopted was influenced by practical considerations of the qualitative and quantitative paradigms.

As a philosophical assumption, pragmatism provided the foundation upon which this doctoral study on the clinic in Zimbabwe was shaped. Utilising this worldview had its own implications. From an ontological perspective, the researcher's pragmatic worldview held that there are singular and multiple perspectives with regards to the nature of reality. From an epistemological perspective and looking at how the researcher related to his research participants in Zimbabwe, his pragmatism worldview meant that he had to collect data by 'what worked' to address his research question. Considering axiology and the role of values in research, the researcher adopted both biased and unbiased perspectives to reduce bias and increase objectivity in his research. Methodologically, he combined both *qualitative* and *quantitative* methods to provide a better picture of the clinical legal education in Zimbabwe through a *mixed methods research* synthesis he describes below.

2.3 Mixed methods research choice

The undertaking of a systematic review, the use of a grounded theory as an analysis tool and its combination with a case study methodology reflects not only the researcher's pragmatic philosophical orientation but is also representative of how this doctoral study became a set of interactive components as the research progressed. Building on from the researcher's philosophical stance outlined previously, this section presents a mixed methods research synthesis reflecting a series of decisions the researcher took in collecting both quantitative and qualitative data and mixing them through a mixed methods research design. The critical appraisal of the quantitative orientation in the form of the systematic review used to search for relevant journal articles followed by using a grounded theory to analyse textual data landed itself as an aid in making decisions that offered "a logical and practical alternative" (Johnson and Onwuegbuzie, 2004: 17) to the overall research process. The combination of complementary strengths and weaknesses between the case study methodology as a tool for collecting data from Zimbabwe and the subsequent use of grounded theory to analyse data in the form of transcribed interview scripts offered the "best potential for an answer" (Ibid: 19) to the research question the doctoral study aimed at unravelling.

As shall be seen in Chapters 3, 4, 7 and 8, the mixed methods research approach became both a method and a methodology (Creswell, 2012) for conducting the doctoral study involving a systematic literature search strategy; the analysis of textual data; the

undertaking of fieldwork and the subsequent analysis of fieldwork data. All these processes were primarily dependent upon the researcher's initial stance towards the nature of knowledge. Rather than aiming to replace the quantitative and qualitative approaches to research, the purpose of mixed methods applied in this doctoral study was to draw from the strengths of the two orientations, go past the ardent disputes that are a common feature of the quantitative versus qualitative debates, combine quantitative and qualitative paradigms to provide a better understanding of clinical legal education in Zimbabwe. This would come through a comparison of the review findings from the systematic review and the research findings of the case study than through a single approach alone (Creswell, 2012).

The mixed methods research process model's first step involved the *determination of the review and research questions* (Johnson and Onwuegbuzie, 2004), as stated in the previous chapter. This stage was then followed by the *determination of the appropriateness of a mixed method design*. Identifying and understanding the factors influential in the establishment and sustainability of clinical programmes around the world would not have been possible had the researcher used the traditional narrative approach in reviewing literature on clinical legal education considering the huge volume of studies published on the subject. Such an approach would have led to bias in the selection of journal articles limited to those authored by who the researcher knew as the *gurus* in clinical legal education. The use of a quantitatively driven systematic review of clinical scholarship for a research largely considered as qualitative was considered an appropriate tool that minimised bias and provided a stronger evidence for a conclusion through convergence and corroboration of review and research findings.

2.3.1 Mixed methods rationale

To unpack the Zimbabwean clinic, and to rationalise the use of a mixed methods research, it became incumbent upon the researcher to bring together various distinct methods through triangulation in which the researcher sought convergence and corroboration of results from different methods and designs comprising of a systematic review, case study methodology and grounded theory. In the process, he increased the internal validity and credibility of the research findings.

Although each paradigm separately only accounts for some aspect of the phenomenon, the mixing of methods and approaches came into being because of the researcher's appreciation that quantitative and qualitative paradigms, albeit viewed as two contrasted

orientations, would through complementarity, emphasise each other's qualities and assist in explaining clinical legal education in Zimbabwe. The purpose was to seek elaboration, enhancement, illustration and clarification of the results from the systematic review method with results from the Zimbabwean case study where formal in-depth interviews complemented findings in the existing literature. The researcher drew a richer and subtler picture of how the clinic in Zimbabwe operated. The complementary nature of the two paradigms extended the comprehensiveness of the doctoral study by broadening and deepening the understanding of clinical activity in Zimbabwe. The systematic review findings assisted in informing the fieldwork in Zimbabwe by developing the sample and instrumentation for empirical research in Zimbabwe. The completion of a quantitatively driven systematic review laid the foundation for a paradigmatic phase change. The data gathered from clinical scholarship were instrumental in the formulation and development of in-depth interview questions for research participants through a qualitatively driven case study methodology and the subsequent use of the grounded theory method.

The next step to consider was the *selection of the mixed-method research design model*. The pragmatic approach played a part in influencing the researcher's decision on the type of mixed research typology that would be suitable for the doctoral study since a "tenet of mixed methods research is that researchers should mindfully create designs that effectively answer research questions" (Johnson and Onwuegbuzie, 2004: 20). This stood "in contrast to the common approach in traditional quantitative research where students are given a menu of designs from which to select" (Ibid). The next step involved the *collection of the textual data* in which data from clinical scholarship was surveyed and collected quantitatively through a systematic review of literature. The next steps involved an *analysis, interpretation and legitimation of textual data* using Strauss and Corbin's (1990, 1998) grounded theory's coding systems discussed in detail in Chapters 4 and 7.

Following on from the data collection in Zimbabwe, and to solidify the rationale for using mixed methods research, the researcher used the *data reduction* technique to process the dimensionality of the qualitative data and the quantitative data (Onwuegbuzie and Teddle, 2003) in which data were reduced through the same coding processes to elucidate a clearer meaning of the Zimbabwean clinic. This process was followed by *data display* in which pictorially descriptions of qualitative data such as screenshots of flipcharts and quantitative data in the form of tables and figures were given. This process was followed by *data transformation*. Quantitative data from the systematic review of literature were converted into narrative data that was analysed qualitatively. Qualitative data converted into numerical codes in the form of 25 factors generated from fieldwork were represented statistically in Chapter 7 as were the 20 factors generated from the systematic review.

This stage was followed by a *data comparison* technique in which the researcher compared data from qualitative and quantitative data sources when research findings were compared with the review findings in Chapter 8. *Data integration* characterised the final stage of conceptualisation. Both quantitative and qualitative data were integrated to give a clearer picture of why a legal aid clinic was founded in Zimbabwe and how it can be made to last. The following section describes the mixed methods research methodological procedure in which the researcher handled the qualitative and quantitative data in the progression of his research.

2.3.2 Mixed methods research methodological procedure

As the doctoral research proceeded on a route that combined inductive and deductive logics of inquiry, the researcher utilised a mixture of qualitative and quantitative approaches and found that he was inadvertently engaging in a notation system for depicting the type of methods that this research followed. Consideration was given to other typologies such as those proffered by Patton (1990), Morse (1991), Morgan (1998), and Tashakkori and Teddle (1998) and Johnson and Onwuegbuzie (2004). The researcher pursued flexibility in mixing his research methods “because of the many potential classification dimensions” (Johnson and Onwuegbuzie, 2004: 20) and room for innovation. The mixed methods design for the doctoral study was based on the crossing of paradigm emphasis and time ordering of the quantitative and qualitative phases. The researcher mixed qualitative and quantitative approaches within and across the stages of his research using a mixed method design in which there was an inclusion of a quantitative phase and a qualitative phase in the overall research process as augmented below in table 1.

Table 1 Mixed methods research design: qualitative and quantitative matrix

(Adapted from a model by Nastasi, Hitchcock and Brown, 2010)

Design name	Equal priority	QUAN emphasis	QUAL emphasis
Explanatory Sequential Quan first	QUAN->QUAL	QUAN (using systematic review of literature to search for articles, record search hits and count selected studies in	quan (recounting identified relevant factors from clinical scholarship in Chapter 4, tabulating and recording them to formulate interview questions for fieldwork; theoretical sampling

		Chapter 3)-> qual (using grounded theory to analyse data from selected clinical scholarship in Chapter 4; theoretical sensitivity and coding of data from clinical scholarship)	and number of research participants)-> QUAL (adopting case study as a data collection methodology in Chapter 5; case selection of a single site in Zimbabwe; semi-structured interviews; audio recorded)
Exploratory Sequential Qual first	QUAL->QUAN	qual (detailing briefly the challenges faced in carrying out empirical research in Chapter 6; listening to and transcribing audio recorded interview transcripts)-> QUAN (revisiting the systematic review of literature in Chapter 3 to check for new studies since the last review was carried out to update codes and themes in selected and reviewed clinical scholarship in Chapter 4)	QUAL (using the principles of grounded theory to analyse fieldwork data and present research findings in Chapter 7; text analysis of 5 interviews, a single observation and an examination of 3 documents; description of case study; identification of themes ; thematic analysis of data through coding)-> quan (bringing together the tabulated 20 review findings and statistically comparing them to the 25 research findings from case study in Chapter 8; creating a supported, unsupported and contextual-specific analysis model; administering survey of findings; determining how review and research findings differ; determining a structure of influential factors and conducting a reliability analysis of the thesis)

The researcher made typological decisions that were purely based on two primary questions: *whether he wanted to operate largely within one dominant paradigm* (paradigm emphasis decision) and *whether he wanted to conduct the phases concurrently or sequentially* (time order decision). As can be seen from the notational system in table 1, the mixed method research depicts different type of design models, i.e. *explanatory* and *exploratory*. Connecting the two paradigms became the type of mixing. The type of design was sequential. The reason mixing occurred is that one phase built on the other. Mixing occurred from the moment a systematic review of literature was undertaken right through to the analysis of clinical scholarship and between the oral data collection phase in Zimbabwe and the critical examination of the collected data. In the explanatory model, the timing of the approaches was sequential where the quantitative orientation was followed

by the qualitative orientation and the data connected between the two phases with a different weighting of *QUAN* -> *qual*. In the exploratory model the timing was again sequential where the qualitative paradigm was followed by the quantitative paradigm with the data connected between the two phases with a weighting of *QUAL* -> *quan*.

Thus, textual data from selected clinical scholarship provided through a quantitatively driven systematic review of literature provided a basis for the collection of oral data in Zimbabwe through a qualitatively driven case study methodology in the following manner. The method presented in Chapter 3 was quantitatively driven and explanatory. The researcher undertook a systematic review of literature that involved the recording of search results, the collation of selected journal articles from databases, the construction of a personal review database, the construction of a spreadsheet of the final list of selected journal articles and the construction of summary tables. In the earlier parts of Chapter 3, *QUAN* carried more weight than *qual* in so far as searching for literature and recording results was concerned. Chapter 4 was exploratory in nature. *QUAL* carried more weight than *quan* especially where the review took a turn for an in-depth analysis of selected single journal articles for the purposes of generating themes necessary for the emergence of a theoretical framework (Mkwabu 2016). Even though most of the thesis is qualitatively driven, nevertheless both the *QUAN* and *QUAL* typologies informed each other throughout the research process. This meant that in certain parts of the research process, quantitative and qualitative data were collected sequentially (->) especially in Chapter 3 where journal articles were searched, selected, counted and recorded through a systematic appraisal of the quality of the papers.

Whilst the earlier sections of Chapter 3 were based purely on an explicit quantitative meta-analysis of the available data, the later qualitative part of Chapter 4 was in sequence to the earlier quantitative section of Chapter 3, which adhered to the standards for gathering, analysing and reporting evidence of the systematic review. The notation in table 1 therefore indicates not only which approach was more dominant in a mixed-methods design but also whether “data collection and/or analysis were simultaneous or sequential” (Morse, 2003: 198). The utilisation of the notation system in this research enabled creativity and innovation that went beyond the referenced typologies. The idea of carrying out research on clinical legal education was *QUAL*. The intent of carrying out the research using a systematic review of literature was *QUAN*. The ensuing review and research questions were *qual*. The review process was *QUAN*. The mapping of the clinical legal education field was *qual*. The analysis of selected papers using grounded theory method was *QUAL*. The synthesis of the European Network for Clinical Legal Education (ENCLE) ratification of concepts forming the basis for fieldwork and discussed

in Chapters 4, 5, 7 and 8 was *QUAN(qual)*. The collection of data from Zimbabwe was *QUAL*. The data analysis was *QUAL(quan)*. The integration and data display was *QUAN(qual)*. Consequently, the combination of the explanatory and exploratory sequential designs created “more user specific and more complex designs” (Johnson and Onwuegbuzie, 2004: 20) than those that are prescribed by different methodologists since one of the tenets of mixed methods research is for the mixed methods researcher to develop an ability to create designs that effectively answer research questions.

2.3.3 Mixed methods research justification

As can be seen, the mixed methods research design used for this doctoral study sought to depart from the notion that research can only be undertaken through the adoption of either a qualitative or a quantitative research approach. No single viewpoint in the paradigmatic debates holds the key to the development of new knowledge. Both approaches were valuable in their respective single use in exploring the various factors relevant in the establishment and sustainability of clinical programmes; a feat which would have been impossible to achieve had the researcher insisted on using a paradigm. The mixed methods research design produced more robust measures of association between the two opposing research approaches (Wheeldon, 2010).

The use of mixed methodologies for this doctoral study provided the researcher with a useful and novel way to communicate meaning and knowledge (Johnson and Onwuegbuzie, 2004) on clinical legal education in Zimbabwe. Mixed methods research design provided the researcher with more choices; options and approaches to consider. The level of interaction between the quantitative and the qualitative strands, the priority of the strands, the timing of the strands and the ability to decide where and how to mix the strands, were key in the researcher’s decision to choose a mixed methods research design. The research philosophy and the pragmatic approach adopted for this doctoral study impacted on the methodology adopted for the research project as discussed in Chapter 5.

By using mixed methods research techniques in this doctoral study, the researcher enhanced his skill in methodological expertise and broadened his methodological repertoire by recognising and appreciating that positivists are not entirely divorced from qualitative work nor are interpretivists from quantitative work. Likewise, the positivist’s intuitively adoption of an interpretivist approach in exploring relationships between experimented data variables and discussing their results during the data interpretation

process (Howe, 1992) is evidence of a research process that blurs the boundaries between qualitative and quantitative research as highlighted in the following chapter. The quantitative process of searching and selecting relevant clinical scholarship presented in detail in Chapter 3 and the subsequent analysis of qualitative data presented in Chapter 4 provides a general understanding of the research problem. Consequently, the process laid a foundation upon which a conceptual framework could be formulated through a systematic review methodological approach described in the following chapter.

CHAPTER 3 – SYSTEMATIC REVIEW DESIGN

3.1 Introduction

In the previous chapter, the researcher showed how his research philosophy developed leading to the adoption of a pragmatic stance. However, as stated in Chapter 1, identifying where this doctoral study fitted within the existing clinical scholarship was by no means an easy task hence the decision to undertake a systematic review of literature. This chapter therefore offers guidance in conducting a systematic review of literature on clinical legal education (Mkwebu, 2015). Through a five - stage process involving the formulation of a review question, review protocol and the utilisation of systematic methods to identify, select and critically appraise relevant journal articles, this chapter outlines each formal methodological step in the selection of journal articles in the form of a PRISMA flow diagram. A final selection of 91 journal articles was juxtaposed, integrated and tabulated. The chapter concludes by suggesting that a systematic review method, rather than a narrative review, should be a researcher's tool in responding to an explosion of clinical scholarship (Mkwebu, 2015).

Knowing what information already exists before answering a research question is as important as successfully completing a given research project, hence the need for a literature review of the area under research (Mkwebu, 2015). Different types of literature reviews exist. However, the commonly used are the narrative and systematic reviews. In a narrative review, different primary studies from which conclusions are drawn into a holistic interpretation contributed by the reviewer's own experience, existing theories and models are summarised (Kirkevold, 1997). On the other hand, a systematic review of literature is designed to methodologically locate, appraise and synthesise the best available literature that can be used to answer a specific research question (Boland et al., 2014). As stated previously in Chapters 1 and 2, the main purpose for undertaking a systematic review of literature for this doctoral study was to investigate the terrain and assess the positive and negative aspects of the Zimbabwean context in relation to clinical programmes (Mkwebu, 2015).

3.2 Why a systematic review of literature

While the researcher accepts that narrative reviews have an important role in research because they provide readers with an up-to-date knowledge base to answer a specific topic or theme, they do not describe the methodological approach that would permit the minimisation of the risk of bias in selecting journal articles (Mkwebu, 2015). The freedom to unsystematically choose papers that support one's view is clearly a biased approach and using a review that has bias can lead to inconclusive findings. In order that the researcher retrieved literature that would be relevant to the research question and enable his research to make an original contribution to knowledge on clinical legal education, it was important that he knew what sort of information on law clinics already exists (Mkwebu, 2015). The amount of literature on clinical legal education intimidated the researcher. At first, it was not easy identifying where his research fitted within the existing clinical scholarship because of the 'boom' in literature. The current explosion of clinical scholarship seems to have been influenced by Jerome Frank when in 1933, almost 83 years ago, he asked: *Why not a Clinical-Lawyer School?* Current debates and recent developments in clinical legal education seem to have focused renewed attention upon Frank's influential question. Frank's plea for clinical-lawyer schools has resulted in an extensive literature on clinical legal education (Mkwebu, 2015). Consequently, there has been an emergence of writers around the globe constantly writing on various clinical legal education issues as a book review of Frank Bloch's essential handbook (Mkwebu, 2014) reveals.

As descriptive as they are in their responses to Jerome Frank's question, authors constantly argue that every law school should have a clinical component within its legal education curriculum, staffed by clinicians with the experience in the practice of law for producing lawyers fit for practice. Almost 83 years on, the debate by the legal profession, the law faculty, the law students and society rages on. Stakeholders question with greater intensity whether the training of future lawyers prepares them adequately for the future practice of law (Mkwebu, 2015). The researcher dealt with a large volume of literature that made keeping up with the publication of journal articles in this area of law an impossible feat. It is usual for the number of published papers in clinical legal education to run into several thousands (Ibid).

3.3 Systematic review aims

The systematic review process undertaken for this doctoral study aimed at:

1. establishing whether there has been any research on clinical legal education from a Zimbabwean context to avoid reinventing the wheel;
2. optimising efficiency by only concentrating on literature relevant to the phenomena being investigated;
3. locating and using specific literature in answering the research question by highlighting influential factors in the establishment and sustainability of clinical programmes and
4. identifying knowledge gaps in literature on clinical legal education through a rigorous evaluation and a summary of the findings of all relevant individual journal articles on clinical scholarship

3.4 Systematic review of literature method

The researcher adopted a search strategy that involved a five-stage iterative process; DEFINE; SEARCH; SELECT (Mkwebu, 2015). The ANALYSE and PRESENT stages are unpacked in Chapter 4 where a description of the process of analysis and synthesis of the selected journal articles is given through a detailed discussion of findings of the review using a grounded theory strategy (Mkwebu, 2016). The first three stages were part of a search strategy that followed a specific method in locating existing studies; in selecting and evaluating articles in such a way that allowed “reasonably clear conclusions to be reached” (Denyer and Tranfield, 2009: 671) about what was and was not known.

3.4.1 Review and research questions formulation

Most structures for formulating review questions use the health services framework called patient-intervention-comparison-outcome (PICO). The researcher considered this framework but decided against its use for two reasons. First, PICO is mostly useful in health services research. The research on law clinics is purely social scientific in nature.

Secondly, there is an alternative structure within the social sciences, i.e. the SPICE framework (Booth, 2006). The researcher chose the SPICE framework because clinical legal education is a social science subject. The SPICE mnemonic was a suitable framework because it recognises that evaluations within social science areas of research are typically subjective and require definition of the specific stakeholder view (Booth, 2006).

The resultant SPICE framework for the formulation of the doctoral study's review and research questions comprised of the following:

- **Setting** - (where?) Zimbabwe; developing country; University of Zimbabwe; Midlands State University and Great Zimbabwe University
- **Perspective** - (for whom?) the global clinical movement; students; the public; politicians; the legal profession; University of Zimbabwe; Midlands State University; Great Zimbabwe University; faculty of law lecturers and law clinicians
- **Intervention** - (what?) Emphasis towards the identification of the factors relevant in the establishment and sustainability of clinical programmes
- **Comparison** - (compared with what?) The influential factors compared with each other according to context; developed countries' approaches and experiences with clinical legal education and the utilisation of a lecture/seminar discussion format to teach substantive law
- **Evaluation** – (with what results?) A better understanding of the impact on legal education in Zimbabwe of social factors, economic factors, political factors, cultural factors, historical factors and other practical issues in the establishment and sustainability of clinical legal programmes to inform policy and reform.

The review and research questions components were therefore considered in accordance to the five common features as set out in the SPICE framework resulting in two doctoral study questions being formulated. The research question was formulated, thus: *What factors are influential in the establishment and sustainability of clinical legal education programmes in Zimbabwe?* The review question was formulated: *What factors have been influential in the establishment and sustainability of clinical legal education?*

3.4.2 Reputable data sources and search tools

The research on legal education and professional skills considered law in the context of broader social and economic issues and as such, the doctoral study is a socio-legal study (Mkwebu, 2015). From that perspective, it is interdisciplinary and equally a human and social science study that reflects a multidisciplinary research approach on law, on education and on professional skills (Ibid). The interdisciplinary and multidisciplinary nature of the doctoral study justified the selection of legal and other databases suitable to retrieve clinical scholarship that would be relevant in answering the review and research questions. Besides the online legal databases such as Hein Online, LexisNexis, Lawtel and Westlaw, other databases outside of law that provide reputable sources proved difficult to find. The database, Web of Knowledge (Web of Science) proved valuable as a premier research platform for information in the social sciences, arts and humanities and provided useful information on clinical legal education (Mkwebu, 2015).

3.4.3 Performing the search

The search conducted for was rigorous, time consuming and extremely episodic. At first, the researcher was tempted to type into the databases, the whole research question as it was (Mkwebu, 2015). The databases returned no results because they could not make sense of the whole sentence. Only when the researcher began to break down his review and research questions into key words and turn them into searchable terms and phrases did he begin to retrieve journal articles from the databases (Mkwebu, 2015).

3.4.4 Identifying key words

Clinical legal education is referred to by different terms that essentially mean the same thing such as *law clinic*, *clinical programme*, *student law office*, *clinical legal education*, *legal aid clinic* and *clinic*. To find out more about that one programme called *clinical legal education* there had to be at least a further five terms or phrases that the researcher had to use. This was the most challenging aspect of the first stage of the systematic review until he decided to seek help (Mkwebu, 2015). Apart from the regular support and suggestions by his PhD supervisor, the researcher benefited immensely from the support of the members of the library team at the University of Northumbria's City Campus library

who offered guidance on planning the review process. An example of a key phrase that the researcher coined for the review following a one to one session with a librarian was *clinical legal education* (Mkwebu, 2015).

3.4.5 Conceptualising the review and research questions

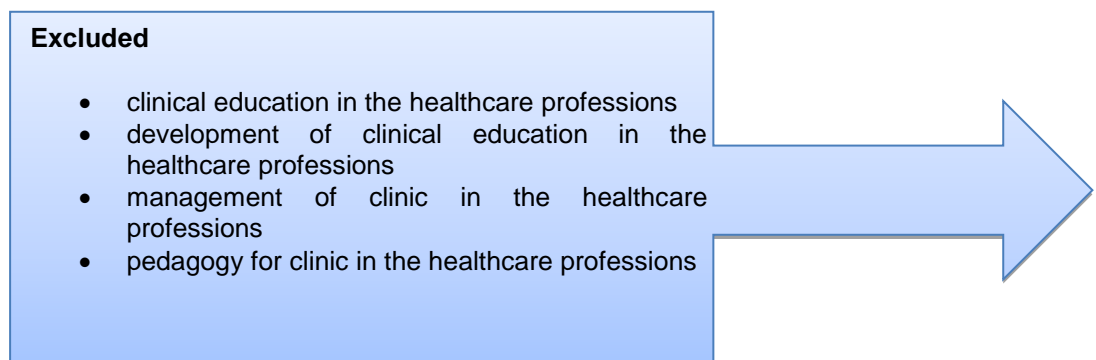
The researcher divided the review and research questions into three separate concepts:

- Topic 1 (establishment/development/sustainability of clinical legal education)
- Topic 2 (management of a law clinic)
- Topic 3 (pedagogy of a law clinic)

The researcher then wrote down synonyms for each topic:

- Topic 1 – establishment of clinical legal education (*start, initiation, formation, inception, creation, construction, foundation*); development of clinical legal education (*growth, expansion, evolution, progress, spread*); sustainability of clinical legal education (*defendable, defensible, justifiable, maintainable, supportable, continuity, consistency, persistence, perseverance*)
- Topic 2 – management of a law clinic (*administration, managing, running, organising*)
- Topic 3 – pedagogy of a law clinic (*direction, indoctrination, guidance, teaching, education, enlightenment, learning, instruction, scholarship, tuition, training, tutoring, study, apprenticeship, coaching*)

This process allowed the researcher to adopt a search strategy that involved the breaking down of the review question into searchable keywords and search terms; the application of an eligibility criteria and the adoption of an inclusion and exclusion process as follows.



Search Limits

- Language - English language,
- Geography - Global (including UK, USA, Europe, Asia, Australia and Africa)
- Years - All years
- Types - peer-reviewed publications, articles and books

Keywords and String Searches

- legal education AND clinical legal education AND Zimbabwe
- legal education AND Zimbabwe
- law clinic AND Zimbabwe
- legal aid clinic AND Zimbabwe
- clinical legal education AND University of Zimbabwe
- clinical legal education AND Midlands State University
- clinical legal education AND Midlands State University AND Zimbabwe
- clinical legal education programmes AND management AND opposition
- 'clinical legal education'
- 'clinical legal education programmes'
- challenges AND developing AND clinical legal education programme
- establishment AND sustainability AND clinical legal education programme
- creating AND maintaining AND clinical legal education programme
- influential factors AND management AND clinical legal education programme

Main Search Terms

- legal education in Zimbabwe
- law clinics in Zimbabwe
- legal aid clinic at the university of Zimbabwe
- legal aid clinic at midlands state university
- development of clinical legal education
- management of a law clinic
- pedagogy for law clinic
- clinical legal education programmes in Zimbabwe

For want of space a detailed discussion of the methodology of the systematic review, is not given here. Suffice to say though that the correct format for the Boolean operators AND, OR, NOT was adopted and used to search for relevant journal articles (Mkwebu, 2015), consequently revealing an interesting trend as discussed in the ensuing sections.

3.5 Systematic review results

Electronic searches conducted from the 20th January 2014 until the 7th April 2014 identified 8904 journal articles from selected databases as presented below in table 2.

Table 2 Quantity of retrieved journal articles

Database	Number of Hits	Retained as potentially relevant
Westlaw	487	103
Hein Online	5798	518
Lawtel	23	7
LexisNexis	140	49
Web of Knowledge	2456	82
Total	8904	759

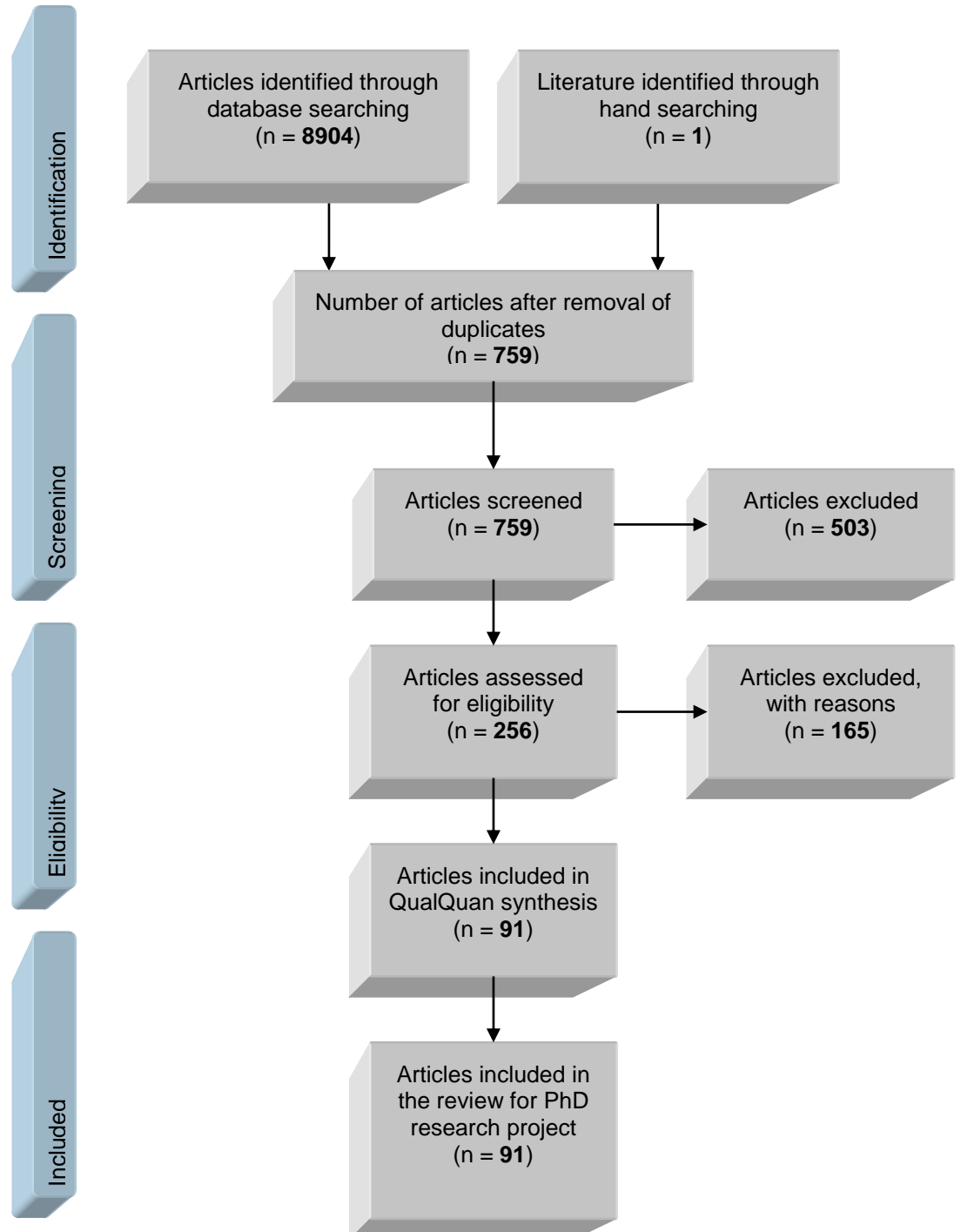
The journal articles were subjected to a de-duplication process in which duplicates were identified and removed. This stage was followed by a further two-stage process that included, firstly, the screening of titles and abstracts and secondly, the selection of full-text journal articles for inclusion in the review. The de-duplication process left 759 journal articles ready to be screened for inclusion (Mkwebu, 2015). The journal articles were subjected to an analysis of their titles and abstracts for relevance in answering the research question. Through an examination of the titles and abstracts and a reading of the introductions and conclusions of this batch of papers, 503 journal articles were excluded because their contents did not specifically relate to the research topic and were not relevant to the aims and objectives of the review (Ibid). The screening stage resulted in 256 journal articles being obtained and subjected to further scrutiny in the second stage that involved obtaining full-texts of the journal articles. These articles were subjected to further scrutiny in the selection stage to determine the extent to which they addressed

factors that are influential in the establishment and sustainability of clinical legal education programmes within law schools (Mkwebu, 2015).

Out of the potentially relevant batch of 256 papers, 91 papers were selected as relevant (Mkwebu, 2015; 2016). A further batch of 165 articles were excluded because they either addressed the differences in theory and approach of clinical programmes and/or the benefits of clinical legal education without specifically mentioning the crucial factors relevant in the establishment and sustainability of clinical legal education. The results of the systematic review and identification of the included articles are presented in a PRISMA flow diagram as illustrated below in figure 1.

Figure 1 PRISMA flow of information

(Courtesy of the PRISMA-Statement.org – accessed on 4th May 2014)



From the onset of the search strategy and throughout the search process, the researcher established that the electronic databases he chose could only pick out the title, subject

heading and abstract of the article as the author had written it. Academic peer-reviewed articles were the best source of data for the systematic review. Nevertheless, the researcher consistently remained vigilant throughout the search process for misleading articles. The researcher had to be on the watch out for authors who may not have given sufficient information for the abstract. It is not uncommon for some abstracts to give a misleading picture of the contents of the article. The researcher therefore decided to widen his search for clinical scholarship outside the narrow confines of the electronic search to include other methods of searching, such as manual examination of printed journals (Mkwebu, 2015). He looked at other forms of information such as, for example, conference proceedings that he had attended both at local and international levels. There were specific sources in clinical legal education where materials were not published in electronic databases but the materials were collated in books which, in response to the needs of clinicians and the research community, is beginning to centralise relevant and up-to-date information about the global clinical movement (Mkwebu, 2015). An example of a more centralised clinical resource, the researcher found extremely useful and therefore included in his review, is the book edited by Frank S Bloch, entitled *The Global Clinical Movement: Educating Lawyers for Social Justice*, published in 2011 by Oxford University Press. The researcher got to review this source at the request of one of his contact, a clinic expert at the Faculty of Business and Law at the University of Northumbria, United Kingdom. It was worthwhile contacting experts in the field who are familiar with the literature and who could advise and point the researcher to unpublished studies of which the latter was not aware of yet (Mkwebu, 2015).

Following up references and hand searching individual journal contents pages linked the researcher with supplements, news items and indeed clinicians who had additional information about other research undertaken on clinical legal education. Such additional steps helped to avoid bias in the selection of articles (Mkwebu, 2015). Sometimes it is easy to take only the more readily accessible material, which is in the major indexed databases. However, such an approach could have potentially defeated the aim of rigour that is associated with a systematic review process. Certain evidence on the factors to consider relevant in the establishment and sustainability of clinical programmes may lie in grey literature and to avoid missing vital information on clinical activity, particularly in Zimbabwe, the researcher searched websites of institutions of higher learning in Zimbabwe where there was some written evidence of clinical activity within that jurisdiction (Mkwebu, 2015). However, that information was skeletal and only referred to the existence of legal aid clinics and not the factors the researcher was investigating hence its ultimate exclusion from the review.

The consideration of unpublished and grey literature was, nevertheless, essential for minimising the potential effects of publication bias. Published studies do not always give an accurate representation of the whole evidence base. Studies that show significant, positive results are more likely to be published than those that give negative views about the field (Dickersin, 1997). Consequently, if systematic reviews are limited to published studies, they risk excluding vital evidence and yielding inaccurate results, which are likely to be biased towards positive research outcomes. It was therefore essential that active and extensive searching for unpublished and grey literature be undertaken as part of the review process for the identification of influential factors we ought to consider relevant in the establishment and sustainability clinical programmes (Mkwebu, 2015).

3.6 Summary of the quantitative synthesis

The information regarding the geographical spread of the reviewed clinical scholarship is illustrated below in table 3.

Table 3 Geographical spread of articles by country

Countries clinic studied	Number of articles per country
United States of America	35
England, United Kingdom	11
Australia	10
China	4
Canada	3
Ireland	3
Nigeria	3
South Africa	3
Croatia	2
Poland	2
Botswana	1
Chile	1
Czech Republic	1
Fiji	1

Germany	1
Iraq	1
Japan	1
Jordan	1
Kenya	1
New Zealand	1
Palestine	1
Romania	1
Scotland, United Kingdom	1
Taiwan	1
Togo	1
Total number of countries (n=25)	Total number of articles (n=91)

As can be seen from table 3, articles on factors that are influential in the establishment and sustainability of clinical legal education programmes is predominantly carried out in the United States than in countries in Europe, including the United Kingdom (Mkwebu, 2015). There is a significant number of papers from Australia as compared to other jurisdictions but relatively less so in some parts of the world particularly in Africa. There is therefore a real strong geographical bias within the global clinical movement itself with the United States topping the table of the location where papers came from (Ibid). Literature on clinical legal education in Africa reveals quite a bit of clinical activity in South Africa and Nigeria but less so in other parts of the continent. It would be very interesting to find out the reason behind the little or no evidence of clinical activity elsewhere in Africa (Mkwebu, 2015). The research findings should be documented and any issues addressed and acted upon, if we are to say with certainty, that clinical legal education has a global reach. The researcher hopes that this trend in reporting will change soon as there now seem to be clinics emerging from elsewhere around the globe (Ibid).

Table 4 Geographical spread of article by region

Region	Country in which the clinic is located	Number of articles per country
Africa (n=9)	Nigeria	3
	South Africa	3
	Botswana	1
	Kenya	1
	Togo	1
Americas (n=39)	United States of America	35
	Canada	3
	Chile	1
Australasia and the Pacific (n=13)	Australia	10
	Fiji	1
	Japan	1
	New Zealand	1
Europe (n= 22)	England, United Kingdom	11
	Ireland	3
	Croatia	2
	Poland	2
	Czech Republic	1
	Germany	1
	Romania	1
	Scotland, United Kingdom	1
Middle East and Asia (n=8)	China	4
	Iraq	1
	Jordan	1
	Palestine	1
	Taiwan	1
Total number of regions (n=5)	Total number of countries (n=25)	Total number of articles (n=91)

The results in table 4 indicate a very strong regional bias in the publication of studies. Most journal articles come from those countries that have developed economies and stable democracies and less so from regions where the operations of the clinic could be affected by socio-economic and political turmoil (Mkwebu, 2015). Is it therefore not possible that we can conclude, with certainty, that clinical legal education has a global reach when there is little or no evidence of whether the relevant factors identified from clinical scholarship in developed countries can equally apply to the clinic in those regions where there is little or no evidence of research (Mkwebu, 2015; 2016). It is arguable that until we have studies reporting on the creation and sustainability of clinical programmes from all regions where there is clinical activity there can be no consensus with the assertion that clinical legal education has a global reach.

Table 5 Geographical spread of articles by time of publication

Decade articles produced	Africa	Americas	Australasia and Pacific	Europe	Middle East and Asia
1950-70		1			
1971-90		4			
1991-2000		10	3	3	
2001-2010	6	15	8	14	3
2011-2014	3	9	2	5	5

As can be seen from table 5, the period from the 1950s up to about the beginning of the millennium, clinical scholarship has been about clinic outside of Asia and Africa but more from the United States followed by Australia and Europe within the decade leading to the millennium. However, this trend seems to be changing with more clinics created globally (Mkwebu, 2015). There is an interesting trend in the surge of evidence of clinical activity between 2001 and 2010 from all regions including Asia and Africa. This was a period of an economic recession. It could be that as people were losing jobs, law firms closing offices and governments streamlining their spending budgets, the demand for free legal advice became higher than ever before (Mkwebu, 2015). Consequently, the turn of events might have led to the expansion of clinical programmes as an alternative avenue for legal services delivery. Even though we still have a lot of clinical scholarship from the Americas, Europe and Australasia and the Pacific, we now have quite a few articles drawing from the operations of the clinic in Asia and certain parts of Africa from 2001 till to date (Mkwebu,

2015). The potential impact on the global clinical movement, of evidence on the creation and sustainability of clinical programmes in Asia and Africa is yet to be felt and seen through publications (Ibid). However, there seem to be some keenness amongst clinicians from these regions to share their experiences in creating and sustaining clinical programmes from their local bases as witnessed from the papers that they present at international conferences (Mkwabu, 2015). However, despite the keenness, it is still difficult to predict exactly when research on clinic in Asia and Africa will be at par with research from the rest of the world if papers presented at conferences remain unpublished.

Table 6 Geographical spread of articles by where authors are located

Region for clinic	Country in which the authors are located	Number of articles per country
Africa (n=9)	Nigeria (Authors of the three articles and their co-authors are all based locally) South Africa (Authors of the two articles are locally based) United States (One author is based in the U.S but was in South Africa for a while; The author of the other article is based in the U.S; was briefly in Togo as Consultant) Botswana (Author is locally based) Kenya (Author is locally based)	n=3 n=2 n=2 n=1 n=1
Americas (n=39)	United States (Twenty-two different authors based in the U.S have published as single authors; Six have published either on their own or with others locally based or with others that are based abroad. One author is based in U.S but writes about clinic in Chile) Canada (Main authors in three articles are locally based)	n=36 n=3
Australasia and the Pacific (n=13)	Australia (Main author and a co-author are both based locally; Main author and three other co-authors are based locally) England (Author is originally from England but has been in Fiji for a while as a Consultant) New Zealand (Author is originally from England but is now settled in Auckland) United States (Main author and another co-author are locally based but the other two co-authors are from Japan)	n=10 n=1 n=1 n=1
Europe (n= 22)	England (Main authors and co-authors in eleven articles are locally based; Ireland (Three main authors and one co-author are locally based) Croatia (Two authors in two articles are locally based) Poland (Two authors in two articles are locally based) Czech Republic (Main author and two co-authors are locally based) Germany (Author is locally based) Romania (Author is locally based) Scotland (Author is locally based)	n=11 n=3 n=2 n=2 n=1 n=1 n=1 n=1

Middle East and Asia (n=8)	United States (Author is based in the U.S. but writes about clinic in China; Main author is based in the U.S and co-author is based in China)	n=2
	Anonymous (It is unknown where Anonymous is based but writes about clinic in China)	n=1
	China (Author is locally based)	n=1
	Palestine (Author is locally based)	n=1
	United States (Author is originally from Iraq but is now based in U.S. Briefly went back to Iraq to create clinic)	n=1
	United States (Main author is based in the U.S but went to Jordan as a Consultant and the co-author is locally based)	n=1
	United States (Author is based in the U.S but worked in Taiwan and created a clinic there)	n=1

Table 6 is illustrative of where most clinical legal education authors were resident as evidenced from the review. Out of a batch of 91 clinical scholarship papers, 44 articles were by authors from the United States. This number could be more if the researcher knew where the anonymous author writing about clinic in China was resident. A closer look table 6 indicates an interesting trend. Journal articles selected for the review were written predominantly by authors based in the United States for the clinic in the United States (Mkwebu, 2015). Not only did the United States based authors write for the clinic in the United States, they also wrote for the clinic in the Americas region except for Canada (Ibid). What is interesting though is that at the time of the review, there had been no evidence of authors outside of the United States writing about the clinic in the United States yet there has been several United States based authors consulting in all other regions but not in Europe (Mkwebu, 2015). Europe based authors mostly wrote about the clinic in their own localities except for one article written by an English author who wrote about creating a clinic in Fiji. There has been therefore a lot of consulting by the United States based authors as compared to Europe based authors.

While there is nothing wrong with having authors from the United States topping the table in relation to writing on the creation and sustainability of clinical legal education programmes both within and outside the United States, there is a danger that this border transcending dominance may influence how we view research by colleagues in the United States (Mkwebu, 2016). In the process, we may even attach a higher status to such work at the expense of similar research carried out elsewhere. Subsequently, we may end up believing that our research questions can only be answered by referring to such work and nothing else. Such an approach has the potential to lead to citation bias. While we must applaud colleagues from North America for undertaking research on the clinical movement and in the process riding high on the research treadmill, we need to encourage

each other to publish more on the clinic where we are resident and value such research (Ibid).

Table 7 Geographical spread of articles by publication in journals

Academic Journal	Africa	Americas	Australasia and the Pacific	Europe	Middle East and Asia	Articles per Journal
IJCLE	4	5	4	12		n=25
Clinical Law Review		10	1		1	n=12
Griffith Law Review	2		1	1		n=4
Fordham International Law Journal	1	2				n=3
German Law Journal		1		2		n=3
Berkeley Journal of Middle Eastern and Islamic Law					2	n=2
Legal Education Review			1		1	n=2
Newcastle Law Review			2			n=2
New York Law School Law Review		2				n=2
Osgoode Hall Law Journal		2				n=2
Phoenix Law Review		1		1		n=2
University of Michigan Journal of Law Reform		2				n=2
Alternative Law Journal			1			n=1
Boston College of Law Journal		1				n=1
Case Western Reserve Law Review		1				n=1
Cleveland State Law Review		1				n=1
Columbia Journal of East European Law				1		n=1
Commonwealth Law Bulletin			1			n=1
Comparative and International Law Journal of Southern Africa	1					n=1
Criminal Law and Justice Weekly Journals Index				1		n=1
Denver Law Journal		1				n=1
Drexel Law Review		1				n=1
Georgetown Journal of Legal ethics		1				n=1
Harvard Law Review					1	n=1
Journal of College and University Law		1				n=1
Journal of Law and Society				1		n=1
Journal of Legal Education		1				n=1
McGeorge Law Review					1	n=1
Michigan Journal of International Law		1				n=1
National Taiwan University Law Review					1	n=1
Nebraska Law Review		1				n=1
Pacific McGeorge Global Business and Development Law Journal					1	n=1

Potchfstroom Electronic Law Journal	1					n=1
SCOLAG				1		n=1
Southern California Law Review		1				n=1
Tennessee Law Review		1				n=1
The Law Teacher				1		n=1
The New Law Journal				1		n=1
University of New South Wales Law Journal			1			n=1
University of Pennsylvania Law Review		1				n=1
Washington University Journal of Law and Policy			1			n=1
Windsor Yearbook of Access to Justice		1				n=1
Total						n=91

There seems to be a growing interest in clinical legal education topics, particularly around the factors we should consider relevant in the establishment and sustainability of clinical programmes within law schools. A closer look at table 7 is testimony to this assertion. As can be seen, a good example is the acceptance of clinical articles from across the globe by the International Journal of Clinical Legal Education (IJCLE). This is an exciting development, particularly for writers who are just getting onto the research treadmill and are so keen to remain on the latter for so long as they continue to have the capacity to think intellectually and the ability to type away (Mkwebu, 2015). For clinical researchers, the reputation and career prospects are largely determined by constantly contributing to scholarly knowledge through publications in academic journals. The New York University website states the following about the Clinical Law Review academic journal:

“The Clinical Law Review is a semi-annual peer-edited journal devoted to issues of lawyering theory and clinical legal education. The Review is jointly sponsored by the Association of American Law Schools (AALS), the Clinical Legal Education Association (CLEA), and New York University School of Law.”

None of the articles reviewed were from members affiliated with the institution indicating no bias in the Clinical Law Review’s selection of articles for publication. A further examination of the information from table 7 reveals another interesting trend. There may be an assumption that law reviews publish more articles from colleagues stationed at the institution housing the academic journal than from academics and practitioners based in other law schools. However, the 12 articles published in the Clinical Law Review, three by one author and nine by others, have shown that the ten authors whose work has been published by the review are from outside New York University but based in the United

States. Highly cited authors include, among others, Peter A. Joy (1998; 2004; 2006); Peggy Maisel (2007; 2008); Richard J. Wilson (2002); Irene Scharf (2006) and Phillip Schrag (1997).

It is not surprising though that a law review with the word 'clinic' would attract the attention of such notable clinicians. Sometimes it is much easier to associate a journal with the type of articles it publishes by merely looking at the wording of its name. Griffith Law Review is another good example of a law review that publishes articles on clinical scholarship, as are the Newcastle Law Review and the Phoenix Law Review. Clinical journals produce more clinic papers than anywhere else. However, this trend does not necessarily mean that other academic journals do not accept clinic papers. For example, the Berkeley Journal of Middle Eastern & Islamic Law is a digital, student-run publication of the University of California's Law School in Berkeley and is not exclusively a clinical legal education journal. Yet it does accept papers on this area of law, particularly from the Middle East and Asia. Fordham University's website states the following:

"Currently in its 35th year of publication, the Fordham International Law Journal is one of the most competitive international law periodicals in the world and, according to a recent study, one of the most frequently cited student-edited legal publications dedicated to the study of international law."

The fact that we have these examples of academic journals also publishing material on clinical legal education is indicative of an acceptance of clinical legal education as a discipline and topics on clinical programmes as publication material worthy of a slot in academic journals regardless of ownership and location of the publisher (Mkwebu, 2015). It is a widely-held view that academic journals are representative of quality in publication of journal articles. While it is accepted that every article worthy of publication must be of high quality we know too well that proxy for quality has created two lenses upon which academic journals are viewed, i.e. prestigious journals and less-prestigious journals. There is a presumption that prestigious academic journals publish journal articles of higher quality than the less-prestigious academic journals. Likewise, where journals have evidence of just one article published on clinical legal education as shown in table 7, the trend could mean that different academic journals have different levels of prestige. However, the fact that there is evidence of acceptance of clinical scholarship from a wide spectrum of journals as evidenced by the information from table 7, means that as clinician researchers, we must respond to this wide acceptance by publishing more widely too (Mkwebu, 2015).

The systematic review did not aim solely to identify and merely bring together relevant clinical legal education papers that specifically identified and discussed factors influential in either promoting or inhibiting the establishment and sustainability of clinical programmes. The researcher juxtaposed the articles through a process of synthesis to identify patterns and direction in findings. He tabulated the selected scholarship to produce an overarching explanation that attempted at accounting for the range of findings (Mays et al., 2005). He examined the composite evidence base for similarities in his chosen selection of papers according to the homogeneity of the papers (i.e. how the research was carried out, where, when, why and by whom) and their relatedness of findings as illustrated below in table 8.

Table 8 Example of a categorized journal article

Author	Date	Title	Citation	Location	Method	Aim	Findings	Critique
Anonymous	2007	Adopting and Adapting: Clinical Legal Education and Access to Justice in China	Harvard Law Review, Vol. 120, Issue 8, pp.2134-2155.	China, Asia	Qualitative; Case Study methodology; Observational approach	Examines China's importation and localisation of this one legal institution, the United States of America style legal clinic, with respect to one stated goal of the importation, promoting equal access to justice in China	Cross-jurisdictional borrowing of institutional models; legal transplantation; indigenous circumstances; spectre of legal imperialism; and the Chinese legal systems are factors that are critical for consideration in the establishment and sustainability of a clinical programme	Descriptive

The example of a categorised article in table 8 is representative of all the 91 articles selected for the review. The types of articles selected are qualitative in nature. They use a case study methodology and adopt an observational approach with a descriptive twist to their aims and findings (Mkwebu, 2015).

To aid the researcher's understanding of various worldviews on clinical legal education in general and on the influential factors in the establishment and sustainability of clinical legal education, a systematic review of literature became a key method for "locating, appraising, synthesising and reporting best evidence" (Briner et al., 2009: 24). Besides, there is a general agreement that the right method is the one that will answer the research question (Holloway and Todres, 2003) even though it may not always be so obvious. Conducting a systematic review of literature was a mammoth task that required a focused effort to complete. Even though the researcher endured months of laborious and tedious construction of the review, the process turned out to be a wise investment of time when researching on clinical legal education as opposed to the more traditional narrative reviews that have the freedom to unsystematically pick and choose papers that support one's view; itself a clearly biased approach.

This chapter has gone through how being systematic and quantitative a systematic review process was. The researcher created and developed a personal review database. He put all the information about the selected clinical scholarship into the database and used that information to create some tables. Based on the method of searching and selection discussed in this chapter, the next chapter provides an in-depth analysis of the selected clinical scholarship and describes how the researcher combined a systematic review process with a grounded theory method to form an effective nexus. In Chapter 4, the researcher encourages other authors to limit writing about own personal successes that is usually laced with an over emphasised self-reflection indulgence. The following chapter therefore discusses what is known (i.e. existing knowledge); what is unknown (i.e. knowledge gaps) and concludes by suggesting ways of filling in the knowledge gaps. Through a critique of the reviewed literature, the researcher calls for opportunities to be accorded the readership to look beyond our facades of grandeur or patriotic rhetoric (Mkwebu, 2016) to the wider view of the benefits of clinical legal education.

CHAPTER 4 – SYSTEMATIC REVIEW FINDINGS

4.1 Introduction

Following on from the search strategy presented in the previous chapter and the systematic methodological processes involved in the retrieval of journal articles, the researcher made a final selection of relevant journal articles. In this chapter, the researcher critically examines the selected scholarship by using grounded theory principles to generate clinical pedagogy concepts and themes. The chapter will begin by providing an overview of the version of grounded theory that was considered appropriate for the analysis of textual data from the selected clinical scholarship. The chapter will then be developed by discussing how the selected scholarship was analysed through a grounded theory coding process that involved the breaking down of textual data into islands of meaning to generate concepts and themes. By surveying different clinicians' diverse experiences with clinical programmes in different jurisdictions and settings, this chapter aims at identifying those factors that have been influential in the establishment and sustainability of clinical programmes in other law schools outside Zimbabwe. This chapter provides an account of the emergence of the global clinical phenomenon by tracing the movement's prominence in different countries. It looks analytically at what was collected and makes connections between the selected journal articles to develop critical and analytical questions of the selected journal articles. The chapter defines and sets the framework for the research by systematically reviewing the selected clinical scholarship. Research that has already been completed in clinical programmes is identified and an analysis of all current information relevant to the research topic is highlighted. In building theory from textual data, a conceptual framework is developed in which what we know as factors influential in either promoting or impeding the establishment and sustainability of clinical programmes is identified together with what we are yet to know. The chapter will offer an insight into how the researcher followed up on the rigorous and systematic review of literature method presented in Chapter 3 and how he connected this with a grounded theory method.

The researcher will argue that the use of the grounded theory method in the subsequent analysis of the selected journal articles provided assurances that were solid and legitimate. Further, the researcher posits the use of the grounded theory method as a

credible source for the emergence of new themes and concepts on the factors that are influential in the establishment and sustainability of clinical programmes within law schools. Clinical legal education issues gleaned from the selected clinical scholarship are appraised. Opportunities and the overall implications for the research generated using this method are highlighted. Interrelationships of themes, categories, concepts and issues generated using grounded theory method are discussed. In appraising the usefulness of the grounded theory method in analysing the findings of the systematic review of literature, the researcher suggests that if the grounded theory method is used meticulously, analysing selected journal articles using this method, is likely to lead to the emergence of a more robust and integrated theory that is also likely to enrich research on the factors influential in the establishment and sustainability of clinical legal education programmes. The chapter will conclude the literature review by suggesting practical steps to fill in the knowledge gaps that were identified by the systematic review of literature.

4.2 The Strauss and Corbin version of grounded theory

This section details a process in which textual data from a batch of 91 selected clinical scholarship articles, retrieved from legal and non-legal databases between January 2014 and April 2014, was analysed. In Chapter 3 the researcher outlined a search strategy he used in locating literature relevant in answering his research question: *what factors are influential in the establishment and sustainability of clinical legal education programmes in Zimbabwe?* He discussed how he conducted a search strategy that involved 3 of a five-stage iterative process; i.e. DEFINE; SEARCH and SELECT. In this chapter the researcher refers to the last two stages of that process; i.e. the ANALYSE and PRESENT stages. Here, he interprets the findings of the literature review conducted systematically over a period and presents a balanced and impartial summary of the findings of the review with due consideration of any flaws in the selection of papers and the limitations of some of the aspects of the review.

The researcher undertook a systematic search process to offer clarity about how and why he obtained a specific collection of literature for his review (Mkwabu, 2015). The better legitimization of every single choice made during the review process enhanced the value of the review (Wolfswinkel, et al., 2013) and it is therefore hoped that this review will become not only more useful to research on clinical legal education but will also become more replicable. Following the identification and selection of the relevant journal articles for his research, the researcher found himself faced with a batch of 91 journal articles on

his desk; all with raw data that needed analysing. It is in the 'ANALYSE' stage of conducting a literature review that he decided that the key principles of grounded theory (Glaser and Strauss, 1967) should be most expressly applied as analytical tools. Grounded theory is one that is "inductively derived from the study of the phenomena it represents" (Strauss and Corbin, 1990: 23). It became a tool the researcher was happy to use in the analysis of data gleaned from clinical scholarship.

Historically, the grounded theory method was originally developed in the United States of America by Barney Glaser and Anselm Strauss. It is in their book *'The Discovery of Grounded Theory'* (1967) that the two authors articulate their research strategies in response to the predominantly quantitative research paradigms. The main tenet of grounded theory is the creation of new theories rather than seeking representativeness to achieve statistical generalisability through carrying out experiments. A grounded theory study such as this doctoral research will normally encompass qualitative approaches such as the collection of data through in-depth interviews. However, this does not mean that other sources of data such as literature (clinical scholarship) and quantitative data (systematic review findings) are alien to grounded theory. The grounded theory method that was originally developed by Glaser and Strauss (1967) has now undergone a lot of reconstructions mainly because of the divergence between the two authors in the way they advocate for the use of the method.

The disagreements between the two authors have resulted in the emergence of three distinct approaches, i.e. Glaser's Classic Grounded Theory approach and Strauss and Corbin's Qualitative Data Analysis method and most recently, Chamaz (2000; 2006)'s Constructivist version of grounded theory. Chamaz (2000; 2006) argues that the two grounded theory pioneers have taken an objective external reality and hence have both allowed their versions to take an inclination towards the positivist and objectivist paradigm. On the contrary, Chamaz takes the view that the studied world needs to be portrayed in an interpretive way in which the researcher and the research participants both embark on the construction of reality. By advocating for a constructivist approach to grounded theory in which multiple social realities are construed and constructed, Chamaz provides the grounded theorist with an option for a third way version of grounded theory to consider in research. Chamaz does not therefore support the view that theories are grounded in and discovered from data. It was this aspect of Chamaz's grounded theory that the researcher found himself at odds with. However, the researcher does embrace the interpretivist aspect of Chamaz's constructivist grounded theory version as it has offered some inspiration and guidance in the completion of this doctoral study.

The earlier versions of grounded theory were each considered according to their treatment of literature and timings in coding. Interestingly, the treatment of literature in the early stages of research could make the Straussian approach appear deductive in nature because surveying the literature before fieldwork could be a fertile ground for the emergence of preconceived theories and hypotheses. The Straussian approach is inductive-deductive in approach as it enabled the researcher to review literature to enable the emergence of concepts and allowed him to make sense of the data he intended to collect from fieldwork. It is this double-faced appearance of the Straussian approach that might draw the attention of critics against its use because the generation of a hypothesis is a feature dominant in positivist research and not interpretive research. However, Strauss and Corbin (1990) have fiercely defended their approach by stating that grounded theory techniques are not rigid, automatic and algorithmic. These techniques did not compel the researcher to adhere to them completely. Reflective equilibrium became the norm and drifting into this state of balance and coherence among different approaches allowed the researcher to become pragmatic and make deliberative mutual adjustments among different principles using mixed methods research as discussed in Chapter 2.

It was therefore important that the researcher identified the attributes of one of the two approaches as essential and to help him become aware from the outset as to which approach was more appropriate to his research and which to adopt. It is the timing of the treatment of literature that made the researcher lean towards the Straussian approach as a tool in the analysis of data. Glaser (1992), advocates for delay in surveying literature until one has collected data. In other words, Glaser asserts that researchers should not examine literature before they commence research. The author's argument is that an early examination of literature before the collection of data results in the construction of preconceived assumptions about the phenomenon under study which, he alleges lead to research bias. This is not entirely true. Glaser's argument is contradictory to the whole purpose of undertaking a post graduate research programme such as a PhD. Usually, one of the prerequisites of being admitted into a PhD programme is that one must identify a gap in knowledge and then undertake a research process with the aim of filling that gap and in the process contributing to scholarly knowledge.

Identifying gaps in knowledge require a thorough survey of the literature to identify what is known and what is unknown and then embarking on a research journey that aims at constructing what is yet to be known. On the other hand, Strauss and Corbin (1990) support the view that researchers should at least try to survey the literature before they can start the research process. This study has been inspired and guided by the principles in Strauss and Corbin's version and partly by Chamaz's version and their interpretation of

grounded theory. Consequently, the researcher found himself at odds with Glaser's version of grounded theory.

Before entry into Zimbabwe to collect data, the researcher undertook a systematic review of literature around those factors considered crucial in the establishment and sustainability of clinical programmes. He therefore entered the field with some sort of knowledge around clinical legal education and the global clinical movement. The literature he reviewed before fieldwork was used to formulate interview questions that the researcher desired to ask research participants in Zimbabwe to understand how the clinic operates in Zimbabwe. In so doing the literature assumed the role of directing theoretical sampling and assisted in theoretical sensitivity. Surveying clinical scholarship was also helpful in providing supplementary validation in so far as the process could be used to show how the research differed from literature surveyed or indeed included some commonality. Undertaking a systematic review of literature prior to the researcher's field work in Zimbabwe resonated with Strauss and Corbin's view that researchers should at least try to survey the literature before embarking upon a research process. Compared with Glaser's coding system, the Straussian version provides explicit guides for data analysis yet allow flexibility. In choosing the most suitable tool to use in engaging with and analysing textual data, the researcher found the advice given by Strauss and Corbin (1998) particularly appealing:

"Sometimes, one has to use common sense and not get caught up in worrying about what is the right or wrong way. The important thing is to trust oneself and the process. Students should stay within the general guidelines ... and use the procedures and techniques flexibly according to their abilities and realities of their studies" (Strauss and Corbin, 1998: 125).

The researcher engaged with literature from the beginning of his doctoral research on clinical legal education to identify what existing knowledge was already available and what knowledge gaps existed in this area of law. The systematic review of literature is what one could term the "geography of a subject" (McMenamin, 2006: 134). The principles applied here, when use was made of grounded theory for literature review purposes on textual data, has the form of published papers (Wolfswinkel et al., 2013) and not yet the documentary evidence coming from the customary open-ended interviews in Zimbabwe which is the purview of Chapter 7. All the 91 journal articles systematically selected for the review were read randomly. There is consensus amongst grounded theorists and researchers using this method that grounded theory is an inductive qualitative research

approach that does not encourage preconceived theories to direct research. Likewise, the decision to randomly read the 91 selected papers was to avoid falling into the temptation of having the reading directed by considerations of who among the authors was the most well-known or well-published as illustrated below in table 9.

Table 9 Leading publishing clinicians

Author	Region	Number of articles (sole author)	Number of articles (co-author)
Peter A. Joy	Americas (United States)	5	3
Jeff Giddings	Australasia and the Pacific (Australia)	3	
Richard Grimes	Europe (England)	2	

The researcher considered the contents of all the 91 selected articles as useful textual data and as such, he wanted to let theory emerge from the data rather than through a process of reading according to a choice based on who the *gurus* in the clinical field were. When reading the single studies for purposes of excerpting, the researcher engaged in open, axial and selective coding (Wolfswinkel et al., 2013) and these ongoing analytical coding processes were applied systematically through a process of differentiating, integrating and partitioning. Below, the researcher describes a sequence of stages in which he developed categories of information, interconnected the categories and eventually built a story line that connected categories through selective coding.

4.3 Reviewing selected clinical scholarship

The following is an examination of 91 clinical scholarship articles. The literature review is structured in a topical organisational approach. The analysis is divided into sections representing conceptual and thematic ideas relating to factors influential in the creation and sustainability of clinical programmes.

4.3.1 Open coding data from selected journal articles into codes and labels

The excerpts on various relevant factors were read with an open mind in finding ideas from data and concepts started to emerge. This process is called open coding. The researcher explored data from the journal articles and identified units of analysis he coded for meanings. In so doing he followed a process where he coded up data, created new codes and categories and subcategorised where necessary and integrated where relevant (Cohen et al., 2013) until open coding was complete. Crucially to the objectives of a grounded theory inquiry, the different concepts became representative of the data in the chosen articles and were considered in the context of the review and research questions. This open coding process was necessary in the conceptualisation of data that allowed an identification of a set of categories with a set of theoretical and methodological insights which framed the choice of research design. Table 10 is an example of an excerpt taken from one of the reviewed articles and is used here as an example of how the researcher engaged with the process of open coding.

Table 10 Open coding example: concepts and category generation

Code and Label Creation through Open Coding	Joy, P. A. (2012). The Cost of Clinical Legal Education, Boston College Journal of Law and Social Justice, Vol. 32, Issue 2, pp. 309-330
The author's initial focus in this article is on the cost involved in legal education and in running a clinical programme. The author alludes to models of clinical legal education. Some models expensive than others. Students represent clients. Students represent under supervision	When discussing <i>the cost of legal education</i> , few areas receive more attention than <i>in house clinics</i> -wherein students represent clients <i>under the supervision of faculty</i> , usually in a <i>law office</i> within the <i>law school</i> (Joy, 2012: 309)
Law clinics are expensive models of clinical legal education. Low student-to-faculty ration is a relevant factor. There are other less expensive models consideration of which may be a cost-cutting strategy	While <i>in-house clinical legal education is expensive</i> due in large part to the <i>low student-to-faculty ratio</i> , <i>other forms of experiential legal education are usually less expensive</i> or, at the very least, <i>no more costly than typical in-class courses</i> (Joy, 2012: 321)
Externship is a model of clinical legal education. Other stakeholders are involved in the education of students. There is an opportunity for self-reflection as part of clinic pedagogy. Students receive supervision both within the legal academy and outside of it. Retention of staff may be on a full-time or part-	Another form of clinical legal education is an <i>externship or field placement program</i> . These, too are either <i>less or no more expensive than non-clinical courses and seminars</i> . <i>Lawyers and judges conduct the day-to-day supervision of most law student externs</i> and they usually receive no pay. Typically, a <i>full-time or part-time faculty member</i> will teach a <i>classroom</i>

time basis.	<i>component to the externship or otherwise facilitate student self-reflection</i> (Joy, 2012: 321)
Calls for reform to legal education date back to the 1920s. Calls for reform towards an experiential learning in the U.S in 1921. Casebook methodology is a form of legal education. Carnegie Foundations was a funder for clinical legal education programmes in the U.S. The Reed Report identified areas and recommended areas for incorporation into the existing curriculum.	<i>For over ninety years, [stakeholders] have evaluated U.S legal education and called for practical, practice-based legal education in addition to legal theory. In 1921, the Carnegie Foundation for the Advancement of Teaching funded the Reed Report, which identified three components necessary to prepare students for the practice: general education, theoretical knowledge of the law, and practical skills training. The casebook method's emphasis on legal analysis, commonly used in most law school courses, fulfilled only the theoretical knowledge objective</i> (Joy, 2012: 323)

As can be seen from the example in table 10, during the process of open coding, the researcher reduced data from Joy's excerpt into small set of labels such as, among others, 'cost of legal education'; 'in-house clinics'; 'supervision'; 'in-house clinical legal education is expensive'; 'low student-to-faculty ratio'; 'other forms of experiential legal education are usually less expensive'; 'the Carnegie Foundation for the Advancement of Teaching'; It is noticeable from these labels that one thing that is being discussed in this excerpt example is the issue of COST involved in establishing and sustaining a clinical programme. Implied in Joy's text is that the author views 'cost' as having certain properties, one of which is expense for the institution. The expense varies from less to more. When the expense involved in running clinical programmes is more, there are consequences. It becomes difficult for clinical programmes to be sustained. To solve this problem, institutions need cost-cutting strategies; inclination towards a much cheaper model of clinical legal education; the externship programme.

Law academies must also strive to look for external funding. One agent of funding referred to in Joy's text is an external organisation; the Carnegie Foundation. As can be seen, this was the researcher's first step towards gradually making sense of the literature on those factors we should consider relevant in our efforts to create and sustain clinical programmes. Throughout this process, what the researcher observed and experienced is that, in using the open coding technique in all the selected articles, he simultaneously immersed in the review articles; paused; took a step back and reflected by asking himself the following questions: *what is it that the author wants us to know with regards to those factors relevant in the creation and sustainability of clinical programmes?; how is he*

saying it and what does it mean for the clinic in general and for my research in particular? These internal monologue questions allowed the researcher to read all his chosen journal articles with an open mind of finding information from data and being open to ideas. As he read through all the articles, he coded the raw textual data line by line. In this way, he generated as many codes as possible without even thinking too much about how he would ultimately put them together as he progresses with the next phases of coding. The tentative creation of the labels for chunks of the data on the left-hand side of the table above summarises what the researcher saw from the articles. These chunks of data were not based on any existing theory but solely on the meaning that emerged from data in the articles; itself an important feature of a grounded theory led literature review.

4.3.2 Axial coding the open codes into categories

Once the researcher had many open codes formulated through the open coding stage, he sorted the open codes according to their relationships. He grouped the discrete codes according to conceptual categories that reflected commonalities among codes through the process of axial coding and to create higher-order categories (Creswell, 1998). When engaging in axial coding, he created categories through an interpretive analysis as he was already beginning to abstract meaning from the chosen batch of selected clinical scholarship. The following example in table 11 is an illustration of how the researcher sorted his open codes into a group of categories using the axial coding approach.

Table 11 Axial coding open codes into categories: towards theory building

Category Creation through Axial Coding	Open Codes/Labels from data
Availability of financial and human resources	The cost of legal education; In-house clinical legal education is expensive; Other forms of experiential legal education are usually less expensive; Another form of clinical legal education is externship or field placement program ... less or no more expensive than non-clinical courses
Collaboration of law clinic with different stakeholders	Externship or field placement program; Classroom component to the externship; Lawyers and judges conduct the day-to-day supervision of law student externs
Research-intensive institution and clinical pedagogy	Full-time or part-time faculty member; Under supervision of faculty; Students are taught a classroom component by the faculty member; Facilitate student self-reflection

As can be seen from table 11, several codes from Joy's article on the cost of clinical legal education have been grouped together as the types or kinds to form categories. For example, the researcher decided that the code, *'in-house clinical legal education is expensive'* fit into a category of codes he called 'Availability of financial and human resources' which refers to costs implications in efforts to create and sustain clinical programmes as discussed by Joy. The researcher identified some central characteristics around which differences in properties exist. The axial coding technique used here allowed the researcher to interpret data in ways that specified concepts; relationships and the effect of contextual relationships and in the process aided his understanding of those factors we ought to consider relevant in the creation and sustainability of clinical programmes. From the above set of codes and labels, the researcher grouped the concepts: *'Externship or field placement program'*; *'Classroom component to the externship'*; *'Lawyers and judges conduct the day-to-day supervision of law student externs'* into a category and named it 'Collaboration of law clinic with different stakeholders'. In this way, he gave the codes a status, i.e. category. For example, he located the category 'Research-intensive institution and clinical pedagogy' at the centre and then created a network of relationships around it with these open codes: *'Full-time or part-time faculty member'*; *'Under supervision of faculty'*; *'Students are taught a classroom component by the faculty member'*; *'Facilitate student self-reflection'*. The axial coding stage was undertaken to confirm that the researcher's concepts accurately represented the data in the selected clinical scholarship and to explore how codes and categories were related. In the process, 20 axial categories were identified and are discussed below.

Previous work on clinical legal education in other jurisdictions suggest that clinical programmes within law schools can help law students gain practical lawyering skills essential for legal practice. Literature also suggests that law clinics have the potential to provide a platform upon which indigent members of the community can access free legal advice. This doctoral study therefore builds on the knowledge that several factors are influential in either promoting or impeding the creation and expansion of clinical programmes.

<p>Review Finding 1: <i>Attitudes of the more traditional law academic staff</i></p>

Increasing concerns amongst clinical scholarship writers regarding the attitudes of some members of the academic staff towards clinical pedagogy and the subsequent difficulties in the integration of such programmes within law schools' mainstream legal education

curriculum have resulted in such attitudes being viewed as a source of impediment to the creation and sustainability of clinical legal education. The view that clinical innovations within the broader traditional legal curriculum that has always provided a legal education through a lecture/seminar methodology, are mere proxy for a money generating scheme (Skrodzka et al., 2008), is a typical constraint. Where there are strong views against clinical programmes because of the view that such programmes are a platform upon which law students are consumers of legal education instead of being active participants, efforts in creating and sustaining clinical programmes would be inhibited. Schneider (1985) found out that the introduction of a new component into an existing curriculum normally creates tension within an educational establishment. Schneider has noted that this is common particularly between reformist academics and the hardliner traditionalists eager to preserve their entrenched belief that the success in the education of lawyers is only through the lecture/seminar method and nothing else. Schneider's view is that attitudes of some traditional law academic staff in the faculties of law could have a direct and negative impact on the expansion of clinical programmes leading to tension amongst the two groups. The introduction of a clinical component into the traditional legal education curriculum creates a profound and irrevocable change in how we ought to teach our law students for the future practice of law.

Setting up and running a law clinic requires a lot of planning and sometimes international funding. International expertise may be needed to implement such programmes through foreign-based groups or non-governmental organisations. Part of the reason why such programmes are difficult to implement, at least in the developing countries, is the hostility to foreign-based organisations (Hamoudi (2005) by faculty members and university leaders. Indeed, jurisdictional governments may associate foreign funding for the implementation of clinical programmes with regime change agendas. When Hamoudi and his colleagues left the United States in 2003 with a plan to implement clinical programmes in Iraq, the faculties' hostility to United States based groups and organisations, was so apparent. In Hamoudi's view, the hostility was because faculty members did not disassociate the United States' military occupation from Hamoudi's project and suspected, as far as Hamoudi could tell, that their project was "part of a plan to Americanise Iraq" (Ibid: 9). Notwithstanding the frequency and sincerity of assurances, in instances where there is suspicion of foreign interference with domestic politics through such social justice programmes, trying to implement a clinic may be too daunting a task. However, on the other hand, success in implementing such programmes may be realised if, for example, the great number of staff involved in the implementation planning is ethnically local. Absent this key component, such plans would be met with significant difficulties.

In presenting the existing legal system and the development of clinical legal education in Poland, Krasnicka (2008) posits that it is not always easy to establish a new clinical programme at a law school where it is so difficult convincing authorities that clinical legal education is an excellent opportunity for the students to get a sense of law in practice. Thus, scepticism by university authorities and the traditional members of the academic staff exacerbated by strong beliefs in the traditional lecture/seminar method as the single educational tool in the overall education of law students is such an important factor to consider and an inhibiting one too. Likewise, one of the impediments to the creation of the clinical programmes and the viability of existing ones is faculty inertia (Hoffman, 2012) in which some colleagues in the law academy may simply not have much interest and enthusiasm in a clinical pedagogy.

Resistance to clinical legal education by the traditional law faculty and the total control of the practice of law by the Bar Association Act 1972 in Jordan are some of the factors that could severely restrict the scope of clinical legal education (Mahasneh and Kimberly, 2012). What is demonstrated in the literature is the fact that it would be foolhardy for any institution and/or clinicians not to take this factor into consideration when planning to implement clinical programmes and indeed in sustaining those that are already in existence. Whilst the researcher accepts that attitudes of the more traditional law academic staff may be an impediment in the creation and expansion of clinical programmes, this view is not balanced in the literature reviewed. The researcher is yet to encounter such views directly from studies that have been written by the more traditional law academic staff clearly stating their position with regards to a clinical pedagogy and confirming the view that they indeed oppose clinical programmes as noted and reported in the literature. The lack of a balanced view in this review finding could be because we still do not have studies in the field that clearly articulate a different agenda on clinical legal education from that of the writers whose work is in support of clinical programmes.

Review Finding 2: <i>Views that clinical legal education is untested and unorthodox</i>
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It has been suggested that the older the university is and the length of time one has taught at such an institution, the bigger the chance of having a faculty that sees clinical legal education as untested and unorthodox (Hamoudi, 2005) and therefore justifying part of a faculty's resistance to change. Regarding Iraq, and on many occasions throughout the course of their clinic project, Hamoudi noted that the dean of one of the targeted law school and several faculty members expressed their belief that clinical legal education

methodologies were untested and unorthodox and therefore not worthy of the university's high standards. The view that clinical programmes are new, untested, expensive (Qafisheh, 2012) and merely money generating projects would impede efforts to sustain clinical programmes that are already in existence and efforts to foster new ones. In 1995, when Seattle University was a little over 20 years, many of the founders of the university were still teaching there (Mitchell et al, 1995) and it has been noted that most of them formed a core of traditional *Socratic* teachers with a firmly implanted belief in the *Langdellian* revolution.

The traditionalists' imbedded belief in the Socratic appellate case method as the only effective teaching tool to use in the education of future lawyers is an influential factor that would impede any efforts in the creation and sustainability of clinical programmes. This suggests therefore that where the Socratic modality is the institutional norm for the substantive legal education curriculum and enforced through promotion and tenure decisions, then any efforts in creating and sustaining clinical programmes would be viewed with suspicion and labelled untested and unorthodox. When the traditionalists hold such views, a law school will hardly be supportive of such innovative programmes. For example, regarding Seattle University law clinic, Mitchell et al., 1995 have noted that:

"In the past years, this clinic was perceived as an appendage to the budget, and a very expensive appendage at that. Many saw the clinic as lacking intellectual rigour, smacking of the notion of a trade school, and serving as a refuge for the less academically capable who took the clinic in an effort to avoid the difficult courses" (Ibid: 5).

Two complementary aims in clinical legal education are the promotion of professional skills training through the improvement of the quality of law practice and the support of the law school involvement in the public service delivery in which the standards of professionalism and public responsibility are raised. According to Bloch (2004: 8), "clinical programmes engage law students in experiential of various lawyering skills and values through active participation in some type of public service activity, such as a legal aid clinic." It is therefore essential that the interpretation of the lawyering profession within a legal education curriculum pay critical attention to the philosophies of theory and practice in educating future lawyers instead of focussing on methods that ignore the realities of the law (Scherr, 2000).

In Scherr's view, limiting focus to the few general principles found in selected reported court cases, the vastly overemphasised appellate courts' importance in the legal profession and the squeezing of law into a few preconceived and artificial categories inherent in the *Langdellian* case method system of teaching substantive law, remove legal

education from the realities of this world. It is therefore no wonder why the traditional method of instruction has been heavily criticised. In an absolute and stunning criticism of Christopher Columbus Langdell's case method of training future lawyers, Frank (1933), made the following observation:

"The lawyer-client relation, the numerous non-rational factors involved in persuasion of a judge at a trial, the face-to face appeals to the emotions of juries, the elements that go to make up what is loosely known as the 'atmosphere' of a case – everything that is undisclosed in judicial opinions – was virtually unknown (and was therefore meaningless) to Langdell. A great part of the realities of the life of the average lawyer was unreal to him" (Ibid: 908).

Frank's quote encapsulates the essence of incorporating professional skills within the legal education curriculum. It demonstrates the desire to revolutionise legal curriculum and discourage the preservation of the status quo and the belief in the traditional model of legal education where students would usually be treated as empty vessels in which to pour theories of law and legal information as a way of preparing them for legal practice. In Frank's view, the traditional law school faculty and academics see clinical programmes as a threat to the traditional teaching of law as a set of objective principles, norms and standards. Thus, the traditional pedagogy usually involves transmission of theoretical knowledge about legal system, legislation and jurisprudence. What Frank would have wanted to see in a revolutionised curriculum was a clinical teacher raising pragmatic questions about what the relationship should be between a law school and a clinical pedagogy and most importantly what would happen with regards to clients' cases during the months in which the law school would be closed, for example during the summer holidays.

Literature has revealed that sometimes the favourable opinions of the junior members of staff are not normally held in the same regard as those of their senior colleagues, particularly where legal academies are quite hierarchical in nature (Hamoudi, 2005). As such, any attempts at trying to free up the processes required of universities to establish and/or sustain clinical programmes in a law school where deference to tradition is the norm would be met with a strong resistance and feelings of abhorrence. Efforts at preserving the status quo will stifle any efforts at establishing and expanding clinical programmes. Consequently, such views may affect the institution's gatekeepers' willingness to fund such programmes. The views of the authors whose work the researcher reviewed, demonstrate that where there is a strong belief amongst the more traditional academics in the traditional model of legal education, in which students learn in

passive and non-interactive manner, presents its own challenges in the establishment and sustainability of clinical programmes.

Review Finding 3: <i>Resistance from the legal profession</i>
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It has been suggested in the literature that the legal profession's opposition to free legal representation of indigent communities by law schools significantly affect the ability to create and sustain clinical programmes. In exploring the development and spread of clinical legal education around the world and how that might work in a country such as Taiwan, Martinez, (2012) has noted that the practical training and the post-Bar apprenticeship requirements by the Taiwan Bar council presented significant difficulties in efforts to establish and sustain clinical programmes in the jurisdiction. Compounding such barriers and itself an impediment to the creation and sustainability of clinical programmes, was the resistance by that jurisdiction's Bar Association of a clinical component within the mainstream legal education curriculum. In Martinez's view, the Association's resistance was borne out of the lack of a student practice rule for law students to represent clients at court and the view that law schools running clinical programmes normally poach clients from local practices and offer substandard legal advice and representation.

Literature has also noted that the reason why major initiatives in establishing clinical programmes failed in Canada until the early 1970s was the requirement by the law societies to have students undertaking a year of articling (Zemans, 1997) in which students interned between graduation and their admission to the Bar. Such an approach meant that the law academy would need to develop a legal education model that moved "legal education away from skills training" (Ibid: 504). It has been noted that the requirement of the articling process coupled with concerns from many law schools that a clinical pedagogy would weaken the newly established university law school academic model, discouraged Canadian law schools from engaging with aspects of clinical programmes. What this demonstrates therefore, is that such requirements and concerns would present significant difficulties to efforts to create and sustain clinical programmes.

According to Sylvester (2003: 31), "within the undergraduate law degree there is ample opportunity for a clinical approach but this has not been adopted wholesale by academics and law schools." The problem seems to have emanated from an interpretation that clinical legal education is primarily skills training with a more appropriate role to play in the professional legal education. In Sylvester's view, clinical sceptics view the introduction of a clinical element within an educational curriculum as a dilution of the academic study of

substantive law with experiential skills that are necessary for students who are pursuing law studies for the sole purpose of legal practice. In other words, not everyone enrolls as a law student to become a lawyer and such arguments among academics can be so obstructive in any plans to set up and sustain a clinical programme. However, in the United Kingdom, it has been noted that law firms have complained quite often about the incompetence displayed by some law graduates they recruit as trainee solicitors because of their lacking in practical skills. Sylvester has noted that, as a direct consequence of the view held by the legal profession in the United Kingdom, the City Legal Practice Course came into being “suggesting a move towards the niche LPCs” (Ibid: 34). Thus, the legal profession’s demands of the type of students to offer training contracts has had an impact on the undergraduate teaching of future lawyers and in the process these demands drew the ire of the academia. Not surprisingly, Sylvester, in her criticism of the interference from the legal profession in the education of future lawyers, remarked that:

“...the academy has always been resistant to what it interprets as interference by the profession. In recent years, the changing profile of the profession has unashamedly impacted on the second stage of legal training the Legal Practice Course. It is of concern that these pressures must feed through to undergraduate education forcing it to respond to the economic vagaries of the profession” (Ibid: 32).

Sylvester’s quote above encapsulates not only the law academy and legal profession dichotomy but demonstrates that it is a well-accepted concept in clinical scholarship that one of the main objectives of clinical legal education is to teach law students the theories of law, practical lawyering skills and professional responsibility, as well as introducing them to issues of social justice through their practical engagement with the indigent communities. Yet from a legal practitioner’s point of view, it may sometimes be difficult to imagine that a law student can be expected to provide competent legal advice and representation, even under the supervision of a lecturer, where the rules on the practice of law are normally very rigid about the prohibition of unqualified and uncertificated lawyers from assuming professional legal roles.

The delivery of legal service through a clinical pedagogy opens the doors for indigent members of the community to access justice. However, the lack of recognition and acceptance of the justice mission of clinical programmes by the legal profession can be detrimental to the creation and sustainability of such programmes particularly in jurisdictions where there is no respect for the rule of law. Where regimes normally rule with an iron fist and are dictatorial in nature, any attempts at implementing clinical programmes will be met with stiff resistance especially if such programmes are regarded by repressive regimes and the loyalist legal professional bodies as reformist in nature and

critical of the government in their outlook. According to Puga (2003), strong resistance to the development of clinical programmes in Argentina came from lawyers' professional bodies. This was because of a belief within the profession that proposals to include clinical methods carry with them a strong reformist and critical attitude to the dominant system. To sustain clinical programmes, it is imperative that clinics are established as a link between the academy and the practising profession so that they consolidate their place within law schools through the development of effective professional alliances (Giddings, 2008). In Giddings' view, an unhealthy relationship between a law school running a clinical programme and the legal profession would be an impediment to the introduction and sustainability of such a programme. Referring to the establishment of law clinics in Poland, Krasnicka (2008: 51) noted that "it was even more difficult to convince the national associations of advocates and legal advisers that clinics would not compete with them."

There are also suggestions in literature that national reports prepared to address jurisdictions' legal systems can also be an influential factor in the creation and sustainability of clinical programmes, particularly if they have a lasting impact on how future lawyers are educated and how the legal curriculum allow students to expand justice by serving communities suffering from societal inequalities (Scharf, 2006). It has been noted that the 1991 United States' MacCrate report has had a huge influence on how law schools should address both the problem of achieving justice in society and the need for continuing education for attorneys through a clinical pedagogy. For example, the report inspired the development of the Blended Model developed in the Immigration Law Clinic at the Southern New England School of Law (Ibid). Compounding the problem of resistance is the fear by the legal profession that the provision of free legal advice and representation through law clinics operating a legal aid franchise would entail loss of remuneration because of the available alternative route to legal service delivery. The importance of being able to effectively create and sustain a clinical programme without any resistance from a body that regulate the practice of law in a jurisdiction including the issuing out of practising certificates to clinicians for them to carry out their work at the clinic is crucial. During the period of resistance, which may continue throughout the life span of an undergraduate degree course, the resistance by the legal profession and professional bodies would impede any plans to implement such programmes and may even stifle the expansion of programmes that are already in existence. Accordingly, the clinical scholarship the researcher reviewed suggest therefore that, resistance from the regulator whose main role is to regulate the practice of law will almost inhibit the establishment of a clinical programme if the resistance is because of the regulator looking down upon such programmes and frowning upon the advice and representation given to

live client clients by students who are yet to qualify as lawyers. If, however, the resistance is directly from members of the legal profession in practice whose resistance is purely based on competition with the clinic for clients then such resistance should be downgraded to a level lower than that of the regulator whose resistance could potentially prevent the establishment and sustainability of clinical programmes. Thus, the review has demonstrated that resistance can come from the regulator and/or the legal practitioners. As stated in the literature, the traditional view of legal education emphasising legal positivism, legal history and a lecture style of teaching and the management of faculties by an old conservative and traditional law faculty limits the scope of the development of clinical legal education.

Review Finding 4: <i>Legal services delivery policy</i>
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The period when legal advice becomes a necessity for an indigent member of a community is a difficult time when the latter's available financial resources do not allow access to such a service. The provision of legal aid to allow access to justice by indigent members of the communities can be a difficult period for institutions of higher education when planning to implement and sustain clinical programmes, particularly if the institution has not been granted the facility to run a legal aid funded clinic. Such an institution's efforts at creating a clinical programme may be particularly susceptible to being stifled if clients turn to legal aid law firms for free legal advice instead of the legal aid clinic at a university, or at least challenged if there is already one in existence. In times of financial hardship, clinical legal education is an alternative approach to accessing legal services where other approaches seem to be faltering. It is also in instances of hardship on the part of indigent members of the community that universities and law students can effectively participate in the delivery of legal services to indigent communities and create opportunities for the expansion of clinical programmes.

Law students' role in the Chinese legal service delivery policy has been evident not only in their recent participation in clinical programmes but also in their volunteering activities undertaken through the provision of the Chinese legal aid funding system (Anonymous, 2007). However, where access to legal services is through legal aid schemes such as the one overseen by the Legal Aid Agency in the United Kingdom for example makes a valuable contribution to access to justice, the need for an alternative route to service delivery such as through a clinical programme may be obscured (Moorhead, 2004). Thus trying to set up and sustain such a programme would be met with significant difficulties.

The slow development of the global clinical movement in the United Kingdom in comparison with other jurisdictions such as the United States and Australia, for example, can be attributed to the United Kingdom's nationwide legal service delivery policy that previously provided a generous legal aid funding system and in the process limiting the development of clinical programmes.

However, where a clinic has a role to play in advising and representing clients through the legal aid scheme, there is a potential for clinical programmes widening in scope as law schools assume a significant role in the delivery of legal services through such schemes. However, Binford (2009) has noted that the rise of legal aid can eclipse clinical programmes and can therefore lend itself as an impediment factor in the creation and sustainability of such programmes. For example, in the United States, the legal aid clinic at Williamette University College of Law shuttered its doors in the early 1960s because of the rise in the provision of legal aid to indigent members of the community by legal aid firms. Though a positive move towards advancing the cause for social justice, the readily availability of financial resources through governments legal aid schemes can have a knock-on effect on the ability of law clinics to retain clientele. From a clinical legal education perspective and as reported in literature, the existence of viable legal aid schemes provided by governments and run through legal aid firms has been the reason behind some of the difficulties encountered in the establishment and sustainability of clinical programmes.

Many studies have investigated the existence of legal aid schemes and the effect the provision of such schemes would have on the existence of a clinical programme (Goldsmith, 2002; Moorehead, 2004; Gledhill, 2013). These studies have concluded that where the responsibility to meet an unmet need is the purview of legal aid lawyers and not of a clinic, the ripple effect can be enormous when there are no longer any live clients seeking help from clinics. However, there is also evidence that law clinics in the United Kingdom such as in Kent, Sheffield Hallam and Northumbria, all thrived in the most well-funded legal aid system in the world. Australia's legal aid provision also partly funded clinics in the jurisdiction. The divergent views on the availability of legal aid schemes and the effect the provision of such schemes has on the establishment and sustainability of clinical programmes demonstrate the need to consider the context and the differential impact a jurisdiction's legal services delivery policy may have on a clinical pedagogy.

Review Finding 5: <i>Clinical legal education seen as a form of legal imperialism</i>
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During a time when less-funded institutions are planning to foster new clinical programmes or indeed trying to sustain programmes that are already in existence, they would normally be constantly seeking help. They and may look to others, not only for financial assistance but also for guidance and confirmation in the pedagogical decisions they make for themselves. Often, establishing and sustaining clinical programmes requires international funding and the use of international expertise through foreign-based groups or local established non-governmental organisations (Rosenbaum, 2012). This demonstrates that relationships between powerful international institutions and/or funders and the less powerful local institutions will often include variety modes of economic penetration into the latter. It seems therefore that idolising of celebrated foreign and international clinical programmes can occur so naturally at the targeted institution so much that the experts and funders may be hoodwinked into believing that it would be easy to impose their own clinical models in the targeted country, particularly if the international expertise is accompanied by a ring-fenced funding regime. Such external funding by friends of goodwill may be viewed as a form of legal education imperialism that may be resisted by the locals and in the process stifling the creation and expansion of clinical programmes.

It is not a secret that the operations of most clinical programmes around the world depend on external funding and are funded through foreign established entities. In some instances, the creation of a clinical programme may require the services of a consultant from jurisdictions where clinical legal education is entrenched within the mainstream legal education curriculum. Yet the “logistical and cultural gaps are huge” (Rosenbaum, 2012: 90) to the extent that efforts to create a clinical programme may be presented with significant difficulties. There are suggestions that, in the creation of a clinical programme in a host country, the foreign consultancy strategy is typically engineered through the corridors of the embassy’s public or cultural affairs personnel. Normally, it is usually based on an assumption that the “American jurists have something of interest to our counterparts in developing democracies and that this is accomplished by a series of lectures or informal visits in small groups” (Ibid: 60).

It is therefore vital that those involved in foreign consultancy, aiming particularly at introducing a clinical programme in a targeted country, understand what the existing legal education provides from a socio-economic-political and cultural perspective. Otherwise, there is a danger of the consultancy scenario being rejected in its entirety by the host country; not because the foreign consultants’ work is not good but because the locals do

not understand that good work and how it is translatable to their own local systems. It has also been stated that despite translatability and adaptability of the nascent legal structure (Ibid), there is also a need to understand and deal with the costs and staffing issues when planning to set up a clinical programme within a targeted country. Creating a clinical programme in a target country cannot be the mission of a sole individual. It requires collaboration; collaboration with locals; collaboration with the local legal profession and collaboration with the host government. International based clinicians have travelled the length and breadth of the world's continents sharing clinical programmes experience and expertise. Using Togo as an example of a personal experience in creating a clinical programme in a foreign jurisdiction, Rosenbaum noted that:

“The successful establishment of any new program or institution takes time and it takes others. There must be more face-to-face exchanges and of longer duration. There must be a greater interchange between Togolese who study, observe, teach or consult abroad – in Arica, Europe or the United States – in law school, law practice or NGO settings, and foreigners who come to Togo to do the same. Any attempt at establishing a clinical system will also require public and private funds, administrative and technical feasibility, and political will” (Ibid: 90).

The key in consultancy therefore, is a need for the foreign creator of the clinical programme to communicate their objectives transparently and in a manner, that is encouraging and in a way which does not “trigger a divisive response” (Ibid: 90). It is advisable to “strive to impart information and exchange ideas in a spirit of mutual respect, and not by way of the sermon or financial carrot-and-stick” (Ibid: 90). Foreign donor support for the creation and sustainability of law clinics can itself impede efforts to set up and run clinical programmes within law schools, particularly if the creation and sustainability of a clinical programme must follow a certain set of established models from elsewhere. While we ought to appreciate the importance of advocating for donor support for clinical programmes, literature reminds us that we must also be appreciative of the fact that local institutions using international expertise and relying on foreign consultancy will be cautious against funders whose funding regime has a ‘string attached’ element to it. Thus, pressure on local clinical programmes to fit foreign clinical models may face resistance. Thus, international interference through the rubrics under which many of today's clinical programmes have been funded (Ibid) is an influential factor that would present significant difficulties in efforts to create new clinical programmes and sustaining those that are already in existence. Crucial to any endeavours towards the creation of clinical programmes, is an appreciation of the fact that short-term visits and short-term foreign visitors have their limitations. A successful foreign consultancy scheme is usually

not achieved through a 'drop in' foreign expert lecture approach (Rosenbaum, 2012). Instead, Rosenbaum suggested that "the process of creating a clinical programme and pro bono system is all about the encouragement of what is possible within the existing legal, socio-cultural and economic frameworks" (Ibid: 90).

In treating Japan's experience on clinical programmes as a case study of the issues that should be considered crucial in establishing a clinical programme abroad, Joy et al., (2006) posit that it is imperative that we consider the role of local culture and institutions; the history of the jurisdiction's educational institutions and the nation's existing legal structure. The authors observed that "successfully establishing clinical legal education in Japan will require greater support from judges, prosecutors and the bar" (Ibid: 417). On focusing on how globalisation affect the conduct of clinical legal education worldwide, Maisel (2008), argued that the increased migration of law clinicians from the United States to other jurisdictions' law schools is one of the key ways in which "the trend toward globalisation and the creation of a more integrated world has manifested itself in the legal profession community" (Ibid: 465). Maisel is therefore cautioning against consultancy efforts that do not examine the work being done and fail to analyse the assumptions that underpin that type of work. Maisel argues that failure by experts to familiarise themselves with the local systems and practices and instead engage in invigorating efforts that regurgitate the United States way of doing things can be catastrophic in our efforts to create and sustain clinics abroad. In Maisel's view, "to successfully support the implementation of positive reforms in other countries, the methodology needs to be more collaborative" (Ibid: 465). What literature is suggesting therefore is that one-sided attempts to transfer the United States expertise on clinical legal education is not the right way to create clinics abroad. Instead, the key is that when increasing the level of consultancy in developing countries, one must support the consultancy efforts through government and foundation funding and then buttress those efforts by involving the faculty from the targeted country from the moment when ideas are being exchanged on how best to implement such programmes. Maisel (2007) has offered the following suggestion:

"Further, the overseas visitors must thoroughly immerse themselves in the local context and culture early in the process and then maintain a high level of collaboration throughout all phases to ensure that the reforms they recommend can work in the local context. Finally, particular attention should be paid prior to and during the collaboration of factors that will help sustain reforms after the formal consultation has ended" (Ibid: 465-466).

In presenting a proposed implementation strategy for the Bialystok pilot project in Poland and the difficulties in its implementation, Skrodzka et al., (2008) have noted that one of the issues that they had to deal with when they tried to create a clinical programme was the

view by the local academics that clinical legal education, as an intellectual and practical concept, was extremely United States centric. In the authors' view, such notions do lead to the acceptance of the belief that the introduction of a clinical pedagogy within the mainstream curriculum is just another form of legal imperialism. It is such beliefs that do present significant difficulties in any effort to set up, run and sustain a clinical programme within a law school. Domesticating foreign expertise and the culture of doing things result in direct exposure to different norms of legal practice in the host country and in the process providing an opportunity for the development of an even stronger understanding of the important functions of the rule of law doctrine. It seems therefore that it is the presence of a platform developing strong cross-cultural lawyering skills and the provision of a safe environment for engaging in critical debates and thinking about the rule of law in the host country that matter the most when considering and planning to create and sustain a clinical programme abroad.

Wortham (2006) argues that the reason such programmes sometimes are difficult to implement, at least in the developing countries, is the hostility to foreign-based organisations by the host governments and/or local institutions particularly where there are strings attached to the funding of the clinical programmes. Wortham's view reveals therefore, that manifestations of imposed external influence such as legal imperialism through foreign-based clinical pedagogy models have been concomitants of such systemic encounters. Joy, et al., (2006) cautioned against exerting pressure on local clinics to fit foreign clinical models by emphasising a consideration of role of culture. Maisel (2008) has encouraged the use of collaborative methodologies to promote the acceptance of international expertise and consultancy in the creation and sustainability of clinical programmes.

Review Finding 6: <i>The global clinical movement as a knowledge resource</i>
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It is possible for each law school to be enveloped in its own culture of educating law students so much that in the process, it misses great opportunities in understanding how certain factors may influence the establishment and sustainability of clinical programmes. Relating how an externship programme was created at Phoenix School of Law, Yarnell, (2010) offered some insights:

“As a trial judge, I learned not to reinvent the wheel: learn from others by researching their programs and asking for their advice. In the early stages of Phoenix Law’s externship program, the research and advice that I gathered served the externship program well.

These resources included websites maintained for facilitating legal externship programs, as well as information from already existing externship programs at other law schools” (Ibid: 479).

Yarnell’s quote above encapsulates the importance of seeking knowledge from peers. In Yarnell’s view, knowing where to get information and not shying away from using available resources to learn from others is a great starting point in the establishment and sustainability of clinical programmes. Failing to reach out within the global clinical movement community and in the process missing huge opportunities for growth and development may be an impediment in the creation and sustainability of clinical programmes. Learning from other sources about why clinics start and how they last can be attributed to direct or indirect teachings of fellow clinicians. This notion is intended to encourage networking within the global clinical movement. For example, a constant review of the academic literature on an externship programme is an essential ingredient to the establishment and sustainability of such a programme. What we draw from Yarnell’s view therefore, is that consistency in learning is crucial to the expansion of clinical programmes in the field. So much of what we have learnt about the global clinical movement can be attributed to the direct or indirect teachings and writing of peers. The modern world we put clinical programmes into action is democratic and generous in that it gives us opportunities to look for information that we can use to learn and in the process, turning us into a formidable and informed generation of clinical scholars and practitioners.

Review Finding 7: <i>Community ties with the institution</i>

A challenge for many clinical programmes, particularly those in the developing world, is the lack of building lasting relationships with communities in which institutions are located. Community development has now come within the purview of many a university. Because of the desire to create knowledge-based economies, universities seem to have and continue to evolve with the needs of the community through, for example, the inclusion in the legal education curriculum of a social justice component that reflects community demands. Various studies have suggested that the successful creation and sustainability of a clinical programme is dependent upon the institution and community ties in existence (Smith, 1999; Spencer, 2002; Skrodzka, 2008) at the time. It has also been argued that it is imperative that universities leverage and forge concrete links with the communities they serve through which many major issues affecting the community can be addressed (Castles, 2002). In analysing the nature of community development in relation to the

successful creation of clinical legal education programmes, Kenny (1999) identified a range of key features that are necessary in the context of the establishment and sustainability of a clinical programme. In Kenny's view, effective community development generally involves a commitment to subsidiarity, i.e. the idea that power should be devolved to the lowest level possible, consistent with the effective governance of the affairs in question. According to Giddings (2008: 6), community development "also involves the establishment of supportive communities based on developing and sharing resources and social interaction and participation." From a community service perspective, Australian law schools and universities now appear to expect more from their clinical programmes and clinicians where students can develop hands-on legal skills while being showcased to the general community as examples of a university commitment to community service and access to justice. What literature is demonstrating here is that the reality we face today in the field is a politically-driven withdrawal of the governments' funding on legal aid provision for indigent communities (Castles, 2002), leaving the delivery of legal services to community organisations. Whilst the withdrawal of legal aid funding impacts negatively on indigent people's ability to have access to justice, for educational purposes, it can turn out to be a positive factor to consider in the establishment of a new clinical programme for a law school "with a ready supply of students engaged in a liberal educational experience ... suited to engaging in the delivery of such services" (Ibid: 13). These views from literature suggest the importance of community and institution coherence as an influential factor in the establishment and sustainability of clinical programmes.

Review Finding 8: <i>Relationship between the law clinic and the judiciary</i>

Literature reviewed has shown that there are practical benefits when students are taken through a legal education curriculum that enhances opportunities for them to practice legal skills whilst still at university (Hall and Kerrigan, 2011). Such skills include the ability to solicit out relevant information and legal issues from clients through the process of client interviewing, to research the law to inform practical legal advice and to confront ethical issues sometimes identifiable in client cases. However, literature also suggests that when implementing a law clinic, experiential learning requires partnership with other external agencies. In Iraq for example, judges were said to be hostile to the idea of unsupervised students crowding into their tiny courtrooms to witness proceedings that would in the judges' view, be disrupted by the presence of the students (Hamoudi, 2005). Such lack of support for a clinical pedagogy and partnership on the part of the judiciary would stifle any

efforts in the creation and sustainability of clinical programmes. Conversely, concerns have also been raised by the judiciary in other jurisdictions on the quality of advocacy in the courts suggesting too that a call for quality by the judiciary is itself an influential factor in marshalling resources towards a clinical pedagogy. For example, Stuckey (1996) noted that in the United States, calls for reform intensified in the 1970s when Chief Justice Warren Burger repeatedly raised concerns about the quality of advocacy in the federal courts. The concerns and direct calls for reform from the judiciary necessitated the implementation of clinical programmes within law schools in that jurisdiction. This view of literature demonstrates therefore that judiciary activism and inclination for higher standards of advocacy at courts is a crucial factor relevant in the establishment and sustainability of clinical programmes.

Review Finding 9: <i>Collaboration of the law clinic with different stakeholders</i>

Many studies have suggested collaboration between a law school, the mother institution and other stakeholders as extremely important not only in the creation of clinical programmes but also in its future viability (Castles, 2002; Shirley, et al., 2006; Patton, 2011). Where there is no external funding to create and/or sustain clinical programmes, the contribution of space, for example, by the university or the courts and free supervision time by lecturers from other established law school clinics may be a cost-saving approach in the establishment and sustainability of clinical programmes. Sometimes success in the creation and sustainability of a clinical programme can be realised through the availability of collaborative education partners (Shirley et al., 2006) such as, for example, with legal practitioners at private law firms during externship programmes. Collaboration requires clinicians to look closely at student numbers required for the programme; the nature of professional experience sought and the geographical situation of the hosting institution. Such factors will have a bearing on how successful the law academy will be able as far as creating and sustaining a clinical programme through a collaboration exercise with other stakeholders is concerned. Taking the creation of a self-directed legal policy clinic, as an example, certain variables need to be considered from a collaborative perspective (Patton, 2011) if efforts to successfully create and sustain clinical programmes are to be achieved. The clinic's caseload is decided upon by looking at the legal expertise and experiences of the clinicians, the legal needs of the community and the relationships that exist between the university, its funders and the community the institution serves. Crucially too, is the involvement of students in the selection of clinic cases in providing assurances in continuing the viability of the clinic and its sustainability. A lack of these

elements can be detrimental to student enthusiasm and thus impeding efforts at clinic creation and sustainability.

Sometimes, clinicians create their own barriers in the creation and sustainability of clinical programmes (Smith, 1999). Because of everyone's quest to put themselves and their institutions on the world map of the clinical movement, some clinicians and their institutions side step from their initial objectives of having set up clinical programmes in the first place. Instead, they focus more on how high they have raised the institution's flag. In the process, they end up failing to consider the "students' educational needs" (Ibid: 536) and "the current activities of the legal community" (Ibid: 538). Such a lack of consideration of the current activities of the legal community and the elevation of careers and institutional recognition above educational goals may be an impediment in the creation and sustainability of clinical programmes. Sometimes efforts in setting up and running a clinical programme are aided by the accreditation standards set by the legal profession for the legal academy particularly when looking at the status that is accorded to the clinical staff. In tracing the evolution of the American Bar Association (ABA) standard concerning the status of the clinical staff within the legal academy, Joy and Kuehn, (2008), posit that the requirement by the ABA Accreditation standard for legal academies to enter a long-term employment contract with the retained clinical staff is crucial. Providing the clinical staff with a meaningful voice in the governance of the law school and security for jobs is crucial in the creation of clinical legal education and the sustainability of those programmes that are already in existence.

Clinical legal education is a tool in producing competent lawyers who, on entry into the legal profession, can think on their feet. While it is appreciated that there are legal practitioners who prefer seeing law schools detached themselves from a curriculum that provide law students with an experiential component, there is also a section of the legal profession that is so commercialised and business minded that it would need to retain law students who not only have the knowledge but have the skills to make profit for the law firm. As lawyers compete for customers, the demand for a highly accomplished attorney is higher than ever and thus the legal profession is now more eager than ever for law schools to produce graduates who are fully prepared for the rigours of the practice of law in profitable ways (Stuckey, 1996). Competition in the retention of the best law graduates would result in higher salaries for those hired and to sustain themselves, law firms will undoubtedly require "productivity faster from new associates" (Ibid: 659). In such climates, the atmosphere becomes very conducive for creating clinical programmes. Clinics not only produce competent lawyers for a commercial practice, but also make use of law students, during their brief association with the clinic. In the process, they provide a

service to the underprivileged members of the society who can no longer access justice due to the streamlining of services by the legal profession in response to the cuts to legal aid and indeed due to current harsh realities of law practice.

Collaboration is extremely important (Castles, 2002). In describing the operations of a legal advice clinic in the minor civil claims jurisdiction of the Adelaide Magistrates Court, Castles has noted that “the limited material resources from a Strategic Initiative grant of several thousand dollars from Adelaide University, ... enabled the first stage of the trial program to be run at very little cost” and that the “Legal Profession in South Australia has ... offered a grant to fund the clinic for a period of one year” (Ibid: 12).

Literature has reported on professional bodies that are supportive of the advancement of the social justice mission of clinical legal education. For example, to facilitate the spread of clinical legal education courses to enable law students to provide legal representations to clients, the American Bar Association (ABA) promulgated the ABA Model Student Practice Rule in 1969 (Joy 2004). In creating the Model Student Practice Rule, the ABA stated that it had dual purposes to assist the bench and Bar in providing competent legal services for clients unable to pay for such services and to encourage law schools to provide a clinical pedagogy (Ibid). In this way, the ABA has strongly supported the establishment and sustainability of clinical legal education programmes in the United States. The ABA success story through promoting student practice rules and then through its accreditation processes, may also be a lesson for other countries to take a cue from when planning to create clinical programmes. However, it has also been noted that the lack of a practice rule allowing students to represent clients at court is an impediment to the creation of clinical programmes and does create a barrier between a need for legal services and access to justice (Qafisheh, 2012). According to Joy (2004), it is a requirement from ABA that every law school applying for accreditation from the professional body must show evidence of some clinical legal education experience being provided to law students. What the literature reviewed has revealed is the importance of collaboration between law schools and external stakeholders. This must therefore be lauded as important not only in the creation of clinical programmes but also in the latter’s future viability too.

Review Finding 10: <i>Retention and status of clinical staff</i>

It has been said that one of the greatest challenges in implementing a clinical programme is developing human resources within a law school. In considering goals and challenges

facing clinical legal education in India, Barry (2007) posits that the lack of practical knowledge among the clinical staff and the statutory prohibition on fulltime staff from practising law is an impediment in the establishment and sustainability of clinical programmes. Enthusiasm among the retained staff is of paramount importance for the success and expansion of a clinical programme. However, there is an argument that hiring conditions within an institution can easily extinguish that enthusiasm particularly when an inferior status is accorded to clinical staff (Holness, 2013). The creation of a clinical programme and the ability to sustain it will be impacted upon by the fact that “clinical staff tend not to enjoy the same compensation, status, or job security as their “normal” law school or faculty academic colleagues” (Ibid: 335-336).

There seem to be a consensus amongst clinical scholarship authors on what sort of clinician a faculty of law would need for the successful establishment and sustainability of clinical programmes (Schneider, 1985, Giddings, 1999, Macfarlane and McKeown, 2008, Yarnell, 2010). The classic approach is, first and foremost, to orient a law school as a practice-ready entity. Secondly, that would need to be followed up with an engagement of clinicians “with the capability, as well as the connections, to develop and maintain a program that would not only be successful but would also satisfy the school’s practice-ready mission” (Yarnell, 2010: 475). The teaching methods and the workload involved in a clinical pedagogy are more demanding than the traditional lecture and seminar approach to teaching substantive law. Thus, in the view of authors whose work the researcher reviewed, a good and effective clinical programme requires a fulltime clinical director with strong experience as a practising lawyer. The clinical director must have a practising certificate issued by the Law Society or the Bar Council governing the practice of law in that jurisdiction. They must have substantive knowledge in the relevant areas of law that are practised in the clinic. They must have experience with clinical teaching methods and the time and willingness to work closely with students in an interactive manner. Surveying the effects of teaching in a legal clinic in Poland, Krasnicka (2008) has lamented lack of supervision skills on the part of the early career clinicians and explained that:

“Polish law professors who became supervisors in legal clinics had little or no idea of how to effectively use the real client and real legal problem and build the teaching instruments around them” (Ibid: 52).

It is such failures in defining and enforcing a clear and robust role of the supervisor in a clinic that contribute to the failure to sustain clinical programmes and to establish new ones. Clinical programmes may be promoted by retaining staff that do more than just watch over the students’ activities (Macfarlane and McKeown, 2008) but also making sure that students do not make mistakes through persistent supervision. In appraising

reflection as an effective learning tool within a clinical pedagogy, the two authors argue that “with persistent supervisor support, students will also be able to take their reflective practice with them in their future careers” (Ibid: 69). What literature seem to be suggesting here is that there are many good clinical directors out there with substantive knowledge and an increasing number with practical experience, but developing the unique clinical teaching skills and putting them into practice on a regular basis requires a great deal of time and devotion. Many law faculties do not have the necessary teaching staff to conduct the clinic on a fulltime basis. Most clinical instructors still conduct their programmes in addition to their regular teaching workload. Moreover, interactive and experiential teaching methods are usually a novelty when the first clinical programme is launched. Thus, clinical teachers become overloaded and sometimes not credited for the work they do in the clinic.

Closely related to this problem as an impediment to the establishment of a law clinic are the lack of qualifications and a dearth of experience among members of the academic staff and of course the second-class status accorded the clinical staff (Schneider, 1985). As an illustration, a scarce supply of qualified and experienced solicitors and/or barristers with practising certificates within a United Kingdom law school context, for example, would present significant difficulties in implementing and sustaining a law clinic. Initial legal advice can be sought from law students by members of the community and the process would be supervised by a qualified and experienced member of staff. Where case briefs from members of the community require not only initial legal advice but full representation at court where submissions must be made before a judge, clinicians with practising certificates would normally have to take over because law students do not have a right of audience in any court in the United Kingdom until they are qualified to practice and hold practising certificates. Not all law lecturers are practitioners and if they are, they must hold current practising certificates for them to supervise students and take over cases that require submissions before a judge. Thus, when planning to establish a law clinic, it is important to bear in mind that the selection of an experienced candidate (Yarnell, 2010) to lead the operations of a clinic is as important as the education and service objectives the clinic has initially been created upon.

In Iraq, for example, it has been noted that professors are “prohibited by statute from engaging in the practice of law” (Hamoudi, 2005: 12) and most of them do lack practical legal experience. Besides, Iraq law does not permit students to participate in court proceedings or appear before government agencies (Ibid). It is only members of the Iraqi Bar who are permitted to do so. Arguably, these examples from literature seem to suggest that even where a faculty of law has engaged within its ranks qualified clinicians, ongoing,

thorough and significant training for clinicians is essential for clinical programmes to be sustained. In other words, it is therefore essential that clinics remain shaped to a significant extent by the backgrounds of the people working in them (Giddings, 1999) and continue to be run by people with a strong commitment both to delivering casework services to people who would otherwise be unable to access legal processes and to “using the law and legal system to achieve community development objectives” (Ibid: 38).

There have been suggestions in literature around clinical staff’s enthusiasm affecting the success or failure of a clinical programme particularly when the student-to-teacher ratio is concerned. Wilson (2009) has noted that clinical legal education requires smaller numbers of students per faculty member to provide quality supervision of student work and competent representation of client. Wilson’s view suggests that due diligence in case handling requires close supervision of each student from the initial attendance by a client, through to the identification of the legal issues presented in the client’s case, up to carrying out research to inform legal advice and to provide full, informed and practical legal advice and representation. Therefore, literature seem to support the view that a low student-to-faculty ratio provides a good platform for these processes to be achieved successfully and in the process generating interest within the clinical faculty and thus allowing a student to receive more individualised attention from their supervisor. Conversely, a high student-to-faculty ratio caused by the large size of students entering law school classes may inhibit the successful establishment of clinical programmes within law schools (Hamoudi, 2005). There is therefore no doubt that any efforts in creating a law clinic where there is already a high student-to-faculty ratio will be met with lack of enthusiasm on the part of clinicians particularly where the programme could be viewed as only adding more burden on the already substantially overtaxed members of the clinical faculty.

It has also been noted that the retention of an adjunct faculty can itself be an impediment in efforts to create and sustain clinical programmes (Hoffman, 2012). An adjunct faculty possess a vast wealth of legal experience when they are retained to work as clinicians and supervisors in law clinics but their part-time faculty status makes it unlikely that they would have the interest or ability to bring this knowledge into the clinical programmes they teach on as noted from literature. It is this inertia that could sometimes result in clinicians struggling to balance the parallel requirements of the management of client caseload and the management of the student experience (Kerrigan and Plowden, 1996), itself an impediment to efforts in sustaining a clinical programme. It has also been suggested that the lack of incentives for the appointed clinical staff such as reduced teaching loads (Barry, 2007) has an impact on the enthusiasm of the clinical staff of which a lack thereof

would have a great negative impact on efforts to sustain clinical programmes and foster new ones. We also must bear in mind that retaining the best clinical staff will also be affected by the parallel desire of the recruits to pursue opportunities in competitive global markets and the lure of the lucrative legal careers; both of which are clearly absent from clinical programmes which mainly deal with indigent members of the community who themselves may not be able to engage in any lucrative commercial dealings in the first place.

It has been said that capacity issues play a significant role in the establishment and sustainability of clinical programmes. In South Africa, for example, the lack of capacity seems to stem initially from the fact that virtually none of South African law professors had the opportunity to participate in clinics themselves while they were in law schools (Maisel, 2005). In Maisel's view, professors were "forced to establish law clinics and to create a related curriculum without having had any personal experience of what a clinic looked like or how it operated" (Ibid: 409-410). In lamenting the law professors' lack of training in lawyering skills and noting it as an impediment in the establishment and sustainability of law clinics, Maisel noted that professors:

"... had to acquire skills that faculty teaching traditional courses did not require. For example, while both types of faculty should be able classroom teachers and experts in their substantive law areas, clinical faculty must also be trained legal advocates and have the additional skills needed to supervise law students, enabling the students to reflect and learn from experience" (Ibid: 410).

Thus, university staff incentives, status, recognition and the ability by universities to attract and admit the best faculty and students can do so much to ameliorate such capacity issues and in the process, widen the scope of clinical legal education. It is therefore crucial for a university to be able to be identified by what they can offer as an end-product. This means that name recognition and the ability to retain the best academic practitioners succeeding in this highly competitive higher learning environment is therefore an important key to competing. Arguably, the law school at the University of Northumbria is well known for its award-winning Student Law Office (Kerrigan, 2014) in so far as the clinical programme endeavours to bridge the academic and professional skills. The fact that the Student Law Office continues to fly high the institution's flag by winning award after award is a testimony of how an institution can compete and succeed using a range of mechanisms including the development of clinical legal education and the enhancement of practical skills training in such hostile competitive environments.

Rewarding clinicians for their work to make unique and valuable contributions to the improvement of access routes to justice and the production of competent and responsible lawyers is an influential factor in the establishment and sustainability of clinical programmes. Perhaps worth mentioning here, as examples of faculty excellence in clinical teaching are three of the many University of Northumbria's clinicians who have, in the past, been rewarded for their efforts in the advancement of the good work done by the university's Student Law Office. In 2005, the former Dean of Northumbria School of Law, Phillip Plowden received a fellowship for a project on assessment in clinical programmes. The most recent former Executive Dean of the University of Northumbria's Faculty of Business and Law, Kevin Kerrigan, received a fellowship in 2010 for a project on the use of clinical methodology in the undergraduate law degree. In January 2017, Elaine Campbell, a Solicitor Tutor at the University of Northumbria achieved a highly prestigious National Teaching Fellowship in the Higher Education Academy's teaching awards in recognition of her enormous contribution to the university's Student Law Office. Therefore, external recognition of the University of Northumbria's staff, present and past, at the Student Law Office feeds into the successful development and sustainability of the clinical programme. It is also this external recognition that would certainly attract the attention of a university's senior management team and convince it to release university funding to sustain such a programme. Thus, gaining a strong financial backing from the institution's management team because of external recognition would be significant in the establishment and sustainability of clinical legal education programmes.

Review Finding 11: <i>Availability of or lack of financial and human resources</i>

It has been said that one of the major challenges facing clinical legal education is a lack of financial resources to finance clinical legal education programmes (Dickson, 2000; Qafisheh, 2012; Preloznjak, 2013). Battling to obtain financial resources and an unreliable donor funding regime are some of the factors that impede our efforts in sustain a clinic (Holness, 2013). Barry (2007) has warned that, if not handled efficiently, the issue of lack of financial resources to assist law schools to meet the expenses in the operation of a law clinic would present significant difficulties either in the creation of new clinical programmes or indeed in sustaining those that are already operational. In Jordan, the creation of clinical programmes has always been hampered by the problems of infrastructure which were exacerbated by lack of expenses necessary for the smooth operation of clinical programmes (Mahasneh and Kimberly, (2012). In considering the impediments to clinical legal education becoming a central part of the student experience in Ireland, Donnelly,

(2010) singled out the lack of financial resources as the most notable obstacle to the sustainability of clinical programmes. In Nigeria, it has been noted that one of the major obstacles in the creation and sustainability of clinical programmes was the requirement for multiplied input of financial resources in the operation of a clinical programme (Ordor, 2007). In Fiji, attempts by the University of South Pacific, to construct and develop a regional response to regionally perceived legal education needs were not only affected by the large geographical areas to serve (Grimes, 1996), but also by the need to be strategic in dealing with the prominent issue of lack of financial resources and a lack of a central point for the coordination of declared need and/or provisions.

According to Giddings (2008), the key challenge to a greater use of clinical legal education pedagogy remains its resource-intensive nature. Given their educational focus and social justice mission, clinical programmes are not profit making entities as they do not charge clients for the service provided and normally do not get legal aid funding where such funding streams exist. Where there are such general conditions of the law schools in which a clinical programme is being implemented, such efforts will be met with significant difficulties and all this would be largely due to a lack of a financial resource muscle to operate a clinic (Schneider, 1985). While the benefits of clinical legal education are widely accepted in educational terms, clinical programmes remain firmly on the side-line due to, among other things, funding restrictions (Sylvester, 2003), and therefore limiting the scope of clinical programme operation. It has also been said that clinical programmes are often the first to bear the brunt of budget cuts within a university and law faculties are also the first to feel the effect of such financial resource crisis. With regards to Iraqi, Hamoudi (2005) has stated that considering the law schools' desperate state of resources, many faculty members wondered more than once during his initial discussions with them whether a significant expenditure of funds on a clinical programme was the best way to direct limited funding.

A clinic's relatively high cost value and the effort needed to source financial resources is itself an impediment to the establishment and sustainability of a clinical programme. Such a programme will usually need funding for overheads such as rent, stationery, IT equipment and work stations, equipment, pedagogy materials, legal practice and development materials, salaries, communication and client care costs, among others. As most clinical programmes are run like law firms, there are costs implications if the clinic is not already covered by the insurance of the institution. In South Africa, the lack of resources to run clinical programmes was further exacerbated by the great inequalities between historically black and white university law faculties including the comparative lack of facilities, faculty, books and other supplies (Maisel, 2007). Thus, a faculty staff's time

gets divided between clinical pedagogy and the constant engagement in time consuming fundraising and in the process limiting the potential expansion of a clinical pedagogy.

What the literature has revealed is the need for mastery required in successful fundraising. This activity may not be as effective in developing countries as it is in the developed jurisdictions. Fundraising is largely about defining the goals the intended clinical programme aims at achieving beyond the lecture room in such a way that appeals to a wide range of funders. Fundraising has now become a standard part of legal education delivery. Even highly centralised countries with a proud tradition of public subsidy now encourage the education sector to seek funds very broadly. Governments are now redefining their funding priorities to the extent that legal education is now in direct competition with other areas that need funding such as, for example, global warming, environment, and security. The need to attract funding from businesses with interest in clinical legal education; from foundations keen on seeing the promotion of social justice through a clinical pedagogy and indeed individuals with a verve to empower communities is greater today than it was perhaps before the recent global recession. Therefore, the creation and sustainability of clinical programmes in such instances may therefore be presented with significant difficulties. The challenge is particularly acute in developing countries in Africa, for example. According to Oke-Samuel (2008: 147), “funding of CLE at present in Nigeria rests mainly on grants from one foreign donor. The art of fundraising is new to the educational sector in Nigeria.”

In most African countries, particularly the lower income countries, infrastructure is a major constraint on establishing and sustaining clinical programmes. The deficient infrastructure depresses the effective production of competent and ethical lawyers and such infrastructural deficiency is at least as large as that associated with corruption in both the judiciary and private practice sectors. Such a deficiency gets exacerbated by the declining economies of the developing countries. In Nigeria, Oke-Samuel observed that since clinical legal education was at that time new in Nigeria, “the need for infrastructural development cannot be over emphasised as most of the law faculties in Nigeria lack the basic infrastructures for effective running of CLE programs” (Ibid: 148). Likewise, it has been noted that most law schools, particularly those with a large student body, suffer most due to lack of financial resources; itself a factor which will impede the creation and sustainability of clinical programmes. Like so many other law schools, Seattle University has been noted for its relative large student body of around 850-900 (Mitchell et al., 1995) and as such more resources would be required to implement such programmes in addition to the already existing traditional curriculum. Stretching a budget on a new

programme and on infrastructural development can create significant difficulties in efforts to establish and sustain clinical programmes.

Quansah (2007) has noted that in Botswana, there had at the time, the availability of legal aid to indigent members of the community to access justice through the Department of Law at the University of Botswana's legal aid clinic, itself a key component of the curriculum aimed at the education of students in a realistic and experiential environment. Yet, the limitation in funding threatens the very existence of such an opportunity for access to justice and the provision of a quality experiential educational model. Quansah's view is illustrative of the fact that the primary goal of the university's legal aid clinic was an inclination towards providing students with an experiential education, the concerns of providing a legal service to indigent communities remained secondary due to funding problems. Such funding dilemmas and forced options impede the sustainability of clinical programmes particularly where universities are the sole funders of such programmes. Regarding funding restrictions in Botswana, Quansah explained:

"Although the legal clinic provides free legal services to the general public, these are secondary to the fact that it is essentially an academic institution. Currently it neither receives any governmental funding, nor any financial assistance from non-governmental organisations (NGO) or other similar organisations, but is funded entirely by the University of Botswana" (Ibid: 514).

However, the availability of resources from non-governmental organisations for other supportive services to the most vulnerable members of the society may also be a factor in the establishment and sustainability of clinical programmes. For example, it has been noted that while financial resources may be available for children in need, the quality and sophistication of the legal profession and legal institutions serving these children remain deficient (Duquette, 1998). Perhaps, it is in this context as illustrated in literature, that there might be a justification to set up clinical programmes such as, for example, a child advocacy law clinic using some of the money that is already poured into the pot for support through other services; in the process laying the foundations for an interdisciplinary clinic that combines different university departments in the provision of a service to children. In this era of tight budgets and funding cuts, the cost of creating a clinic and sustaining those that are already in place is certainly an impediment. In Hoffman (2012)'s view such cost-cutting strategies will need to be engaged if clinical programmes are to remain in existence. Those opposed to clinical programmes "often malign its expense and look to clinical budget cuts as the primary means of reducing costs in legal education" (Joy, 2012: 309). What the literature demonstrates here is that clinicians must guard against such narrow mindedness that restricts the vision in seeing the value and

vitality of clinical programmes in the education and preparation of law students for future practice. Nevertheless, taking assumptions about the importance of channelling financial resources to other legal education priorities at the expense of a clinical pedagogy pose significant difficulties in efforts to create and sustain clinical programmes. Yet there are lessons from literature that clinicians can take. Costs constraints can possibly be leveraged by a carefully cost-benefit analysis leading to a cost-saving potential that can be crucial in the establishment and sustainability of clinical programmes.

Review Finding 12: *Socio-economic, cultural and political issues*

Whilst efforts at launching law clinics in foreign jurisdictions by international based consultant agencies and personnel is a welcome move in reinforcing clinic expansion and development, literature has emphasised that it is equally important to consider the potential, social and cultural barriers and adjustments that might be necessary to make if a clinic is to be successfully implemented and sustained (Myers and Chen, 2011). In developing countries, the need for understanding the different and diverse needs of the indigent communities is crucial as has been noted by Ojienda and Orduor (2002) in Kenya and by du Plessis (2008) in South Africa. Maisel (2007), has pointed out that although it may seem simple enough at the outset to translate the features and benefits of a clinical programme into a local language, the actual implementation of a clinical programme may present unforeseen difficulties if the concept of a clinical programme does not translate into the needs of the indigent communities and the host government.

Review Finding 13: *Tension between education and service objectives*

It has been said that one of the challenges in creating a clinical programme is dealing with the inherent conflict between clinical legal education's main objectives of providing quality education to students and the provision of a legal service to an indigent community. Given the inherent tension between the two missions of clinical programme, failing to balance the two concerns (Maisel, 2007) can be an obstacle to the establishment and sustainability of a clinical programme, particularly where there "is the pressure on law school clinics to maximise the numbers of indigent persons they represent" (Ibid: 414). The problem seems to be more prevalent in certain parts of the world. Maisel's view is that all legal clinics which provide free representation to indigent persons face serious

caseload pressures, but those are greatly magnified in developing countries, such as South Africa, where most of the population lives in abject poverty. On the other hand, Giddings (2008: 5) has recommended that the “service expectations that will inevitably be linked to external funding need to be balanced with maintaining the focus on student learning.” This means that providing an intense and productive clinical experience for students needs to be balanced with making such experiences available to as many students as possible. Yet sentiments to the effect that, through a clinical pedagogy, law students learn through the backs of the poor sums up perpetual tensions between conflicting clinical legal education objectives related to student learning, community service and the legal professional responsibilities of supervisors (Gavigan, 1997).

While it is accepted that the social justice element in the delivery of legal services through a clinical programme is crucial in accessing justice, there are great risks in throwing every brief to students without adequate supervision and assessment of the duty to discharge client care. Whilst the handling of clinic caseload may seem a great opportunity for a law student to learn more about social justice, lack of client care skills to deal effectively with clients’ cases may have a devastating effective for the client, the student, the supervisor and indeed the institution. The overall success of a clinical programme is effective when clinical directors can strike a balance between objectives of offering an effective service to indigent communities with the overall aim of experiential learning by the student. Describing his own experiences of running a law clinic with a relatively large service-oriented clinical programme at the University of Wisconsin in the late 1960s, Redlich (1970) observed that there were failures in balancing the objectives of clinical legal education emanating from the variations in the student’s clinical supervision provided for by the lawyers who worked in the university’s legal aid office. These gross inefficiencies are discernible from his scathing attack of the academic practitioners when he noted that “... although vigorous and motivated, [academic practitioners] had no experience and, being unable to supervise, avoided their responsibilities, leaving it to the student to seek supervision” (Ibid: 593). While it ought to be accepted that clinical legal education provides students with an opportunity to be taught how to question and practice law within a broader social justice framework, it is also apparent from literature that if the opportunity to place law in its social milieu is not balanced with the educational needs of students, the tension between learning and service will be perpetuated.

It has been noted in literature that clinical programmes and pro bono schemes are both vital components of a comprehensive social justice education within a legal education curriculum but have different goals. Thus, the emphasis on pro bono activities may itself be an impediment to the establishment and sustainability of a clinical programme. While it

is accepted that in several countries, clinical programmes initially developed out of volunteer programmes, not all programmes are established solely on the desire to promote justice, fairness and morality for the poor indigent communities. According to Holland (1999), students at Yale University Law School first became involved in organised volunteer programmes in the late 1920's yet it took more than 40 years for the volunteer commitment to develop into a credit-bearing module. This is a good example of a law clinic developing from current law school pro bono initiatives in the advancement of social justice. On the other hand, Sylvester (2003) raised a crucial question as to whether a greater emphasis on pro bono initiatives would have an adverse impact in sustaining already existing clinical programmes and in fostering new ones in the United Kingdom. In Sylvester's view, clinical programmes in the United Kingdom "have always had, at their forefront, educational priorities. The increase in pro bono initiatives and a greater involvement of students in legal practical work may compromise this" (Ibid: 36).

Reflecting on the number of law clinics that have so far been created across jurisdictions, the number of clinicians so far appointed globally and the current explosion of clinical scholarship all reflect a great achievement of the global clinical movement. Yet there are suggestions that in the last decade "students' interest, funding and scholarly attention to the legal profession has faded" (Macfarlane, 2009: 35). It is argued that this is so because of the mission and ideology of the law school clinical programmes remaining entrenched in the concept of social justice lawyering "that is heavily dependent on rights-based strategies and traditional, hierarchical conceptions of the lawyer-client relationship" (Ibid:35). The implication of this approach on law clinics, as noted by Macfarlane, is that the greater our emphasis is on the social justice mission of clinical programmes, the less emphasis on the education objective and thence the greater the impediment such an approach imposes on efforts to create and sustain clinical programmes.

Sometimes, because there is failure to reconcile the clinical legal education objectives, i.e. service and education, by placing more value on one and less over the other, clinicians end up creating hurdles in developing partnerships with those that already work within the community that they are also meant to serve through the operation of a clinical programme (Mahasneh and Kimberly, 2012). As has been pointed out in literature, the results of such ignorance are catastrophic. Clinicians end up failing to understand the needs and activities of the communities that they are meant to serve and the role of the participation of the civil organisations. This is a clear barrier in achieving the justice mission of clinics and an obstacle in sustaining a clinical programme and/or the creation of a new one. Likewise, balancing the service and education objectives is crucial in case selection. According to Paoletti, (2013), case selection for the clinic and the diverse

pedagogical goals they serve are relevant factors to consider in creating a clinical programme that seeks to play a complementary role of educating law students and at the same time serving indigent communities through free legal advice and representation.

Review Finding 14: <i>Integration of the clinic within the curriculum</i>
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The fact that the historical background, the rationale and the philosophical basis of clinical programmes has little in common with that of the more traditionalist Socratic curriculum does present significant difficulties in integrating a clinical component within the legal education curriculum (Hardaway, 1982). Likewise, in exploring the problems and issues in the creation of law clinics in Nigeria, Ordor (2007) has noted that the entrenched bureaucratic traditional methods of instruction within a legal academy do limit the scope of clinical legal education. It is therefore such entrenched traditional methods that result in the difficulties associated with the integration of clinical legal education into the main stream curriculum and thus causing significant difficulties in our endeavours to implement and sustain clinical programmes (Qafisheh, 2012). Apart from the resource-intensive nature of clinical programmes, summative assessment of the programme and the quality of teaching, learning and supervision are some of the factors that we ought to consider if we are to be successful in our efforts to set up, run and sustain such programmes (Grimes, 1998).

Hardaway, (1982) has argued that even though there may be a clinical programme within the legal education curriculum, full integration of the clinical element within the mainstream curriculum will be met with significant difficulties if there is still a clinical faculty that is without the opportunity for a tenure-track status and is still confined to the second-class pedestal of academics within a law school. Law teachers whose educational background has been nurtured on *Langdellian* methodologies will inevitably produce law students similarly nurtured who in turn become law teachers themselves. On the other hand, those that think that the education of law students through the theory-laden case methodology needs reform tend not become law teachers. This intellectual incompatibility is the primary obstacle to a true integration of a clinical component into the mainstream legal education curriculum and would impede any efforts to create and sustain clinical programmes. Maranville et al., (2012) has noted that the tension between the more traditionalist law faculty, who see clinical legal education as nothing more than a social justice vehicle and the legal education reformists, who see clinic work in its academic development would also present significant difficulties in such efforts too. The

incorporation of such a clinical programme model into the mainstream curriculum can be inhibited by the views of academics who see the incorporation of a clinic as a pedagogy focusing more on student careers rather than on the needs of the indigent members of the community. Such beliefs impede efforts in the creation and sustainability of clinical programmes.

Closely related to the above, as an influential integration factor to consider in efforts to create and sustain clinical programmes, are the fundamental pragmatic questions to ask, such as the location (i.e. where); the reasons (i.e. why) and the process (i.e. how) through which to get clients for the proposed creation of clinical programmes. This is particularly relevant where there are efforts at creating a clinical programme that is expected to operate as a specialised clinic catering for a specific section of the community. Likewise, the more basic pedagogical questions to ask regarding what skills to teach in a law clinic and how to teach those skills to students working in a law clinic is as important in creating a clinical programme as is in sustaining it (Miller, 2013). The integration of a clinical legal education programme and a community empowerment element into the legal education curriculum fosters development in the education of future lawyers for social justice.

Promoting the integration of clinical insights across the broad sweep of law studies has the potential to enhance law teaching as well as promoting the sustainability of clinical programmes (Giddings, (2008). However, a preference by the law academy for a theoretical and doctrinal teaching rather than an experiential learning in a clinical pedagogy, can impede such efforts as noted by Landsberg, (2010). In seeking to address the strategies that have been used in the United States to consider whether any of them might be effective in China, Landsberg has noted with concern “the lack of a large body of scholarship on the theory of experiential learning, the large number of required courses in the curriculum, and the acceptance of the status quo by the legal profession and judiciary” (Ibid: 45) as some of the obstacles that limited the scope of clinical legal education in China.

As can be seen from literature reviewed, there seem to be a sustained line of argument for finding value in pursuing law school pedagogy through an integrated curriculum that incorporates experiential learning with the commitment to serve the community through legal practice. In tracing the history of integration into the curriculum and integration with La Trobe’s neighbourhood and the university’s community as a factor to consider in the creation and sustainability of clinical programmes, Dickson, (2004: 41) posits that “the key descriptor of clinic at La Trobe is integration.” The integration of the university’s law clinic with real clients “through the involvement of students in the provision of legal services to real clients” (Ibid: 41) remained the cornerstone of the La Trobe programmes. Thus,

where there are difficulties in the integration of a clinical pedagogy into the curriculum, trying to create and/or sustain a clinical programme would be presented with significant difficulties and in the process inhibiting any efforts to retain a strong commitment to community service that also facilitates a relevant and effective legal education for students. In exploring the viability of making the key benefits of clinical education, Hall and Kerrigan (2011), have noted that there is a consensus amongst legal educators of the value of engaging law students in an experiential learning. What the literature demonstrates here is that clinicians do recognise and appreciate the power of the interactivity; creativity and vitality of clinical programmes within law school pedagogies. Yet, the tendency by the traditional academic staff to see such programmes as separate entities from the overall pedagogy in preparing law students for future practice remains true to this day. Thus, the ideological opposition of clinical integration into the mainstream curriculum and the ever-changing educational fashions coupled by the never-ending cuts in funding of clinical programmes are critical factors to consider in the establishment and sustainability of such programmes.

Closely linked with integration as an influential factor, albeit from a wider and broader perspective within a university's different disciplines perspective, is the notion of an interdisciplinary clinic where different departments come together to form a clinical programme. Galowitz (2012: 166) has noted that "in South Africa, palliative care was integrated with legal services: law students worked with staff at a hospice association to conduct workshops on wills, debts and family law for hospice caregivers." In the United States, the Intellectual Property and Business Formation clinic at Washington University in St Louis, law students combined with students from business, medicine, social work, biomedical engineering, and arts and sciences in a collaboration focused on intellectual property and business formation, with an emphasis on biodiversity and agricultural-biotechnology innovations. In synopsising the successes and challenges of the Medical-Legal Advocacy clinic at New York University School of Law, Galowitz has acknowledged cultural differences inherent between different disciplines that could impact on the success of interdisciplinary clinic such as for example, "differing views of responsibilities to the client, duties of confidentiality, and what constitutes a conflict of interest" (Ibid: 167).

Notwithstanding these difficulties as stated in literature, efforts at creating clinical programmes using interdisciplinary models must not be allowed to falter even in the face of adversity. it must be accepted that the hallmark of any profession, whether it is in social work, medicine, health care or law, lies in the ability of each profession making its own judgements. Nevertheless, reaching a compromise as different professions lays a solid foundation for benefits to accrue that outweigh disadvantages of working collaboratively.

There is need to recognise that sometimes when legal problems arise there may be a need for additional services and the client issues may not typically be wholly legal in nature necessitating therefore a need for an interdisciplinary clinical programme. Furthermore, as Galowitz has noted that, “leveraging limited resources can result in improved service for clients, where the professions working together can address problems more effectively than could be done by professions working separately” (Ibid: 168). The point being made in the clinical scholarship is that financing is the most challenging aspect in persuading a school to adopt a new clinical programme and hence interdisciplinary clinic collaboration with other professionals and departments could ameliorate some of the financial constraints in setting up and running a clinic.

It has been argued that integrating clinical experiences and insights from a clinical pedagogy across the law curriculum not only enhances legal education (Giddings, 2010: 261) but goes beyond in fostering the sustainability of clinical programmes. In establishing a law clinic at Columbia University in the 1970s, Meltsner and Schrag (1978) attribute their success to their ability to persuade university authorities that only credit/no credit grading was consistent with the goals and methods of the clinical programme. The persuasion in turn convinced the university authorities to grant the authors the freedom to depart dramatically from the teaching methodologies employed elsewhere within the law school. On the other hand, lack of such freedom, large teaching loads and the large size of students taking on a clinical module, would inevitably lead to a huge student-to-teacher ratio which can also stifle expansion of such programmes as noted by Gidro and Rebreanu (2005). In examining the challenges faced in the implementation of a clinical programme by Moi University in Kenya, Ojienda and Odour (2002), noted that in its quest to incorporate a clinical based approach into its legal traditional curriculum, the university faced significant difficulties because of resistance and the lack of cooperation of crucial stakeholders such as the legal profession and the judiciary. This difficulty is more pronounced in universities where a clinical pedagogy is still alien as an innovation to the education of law students. The consideration of the structure of legal education and the legal and ethical concerns is crucial in introducing a clinical programme (Gledhill, 2013), particularly when trying to establish an international human rights clinic in a country where experiential learning has not yet gained a footing. This means that for those considering setting up and running a clinical programme, it is imperative to ensure that the design meets the needs of everyone involved in the operation of the clinic and adheres to all ethical and legal requirements in the practice of law.

Review Finding 15: <i>Research-intensive institution and clinical pedagogy</i>

For universities to attract research funding, they must show that they are research-oriented and their faculties are equally geared at fostering excellence in research that bring substantial economic benefit to society in multiple ways. Academics, through research, bring new ideas into the ever-changing face of societies. They create new knowledge, make new discoveries and contribute to scholarship that is essential in the advancement of citizenry's well-being. From a clinical legal education perspective, integration of clinical legal education pedagogy within the legal education curriculum may also be affected by other institutional priorities that may set demands for university to undertake research and be heavily involved in the development of the more tradition substantive law scholarship (Gold and Plowden, 2011). Such demands may in turn place a burden on academics and clinicians involved in the delivery of clinical programmes. This may also lead to the concept of a clinical pedagogy being treated as peripheral in a law school. Some clinicians may even feel that because of the burdensome of the clinical element in the curriculum, they have no time to undertake substantive law research and subsequently, if the warning *publish or perish* death knell is not heard and heeded, then they may find themselves confined to the lower rungs of the promotion ladder within both the law school and the university (Bloch, 2004).

Contrary to the misconception that the demands placed on clinicians by the legal service delivery and student supervision inherent in a clinical pedagogy prevent clinicians from undertaking research that is essential in the primary mission of legal education, is the fact that clinical scholarship melds together legal education and professional skills (Gold and Plowden, 2011). Thus, the goals of offering effective legal education, improving the quality of law practice and enhancing the public role of the profession is therefore, achieved through the advancement of clinical scholarship through the publication of articles on clinical legal education. In Bloch's view, clinicians can also contribute to legal scholarship through the operation of the clinic and using such a platform as a fertile ground for research activity which can satisfy academic promotion criteria for staff, allowing the teaching of valuable research skills to students and more importantly, address those practical legal issues relevant to the community in which the university clinic and the institution are based (Dickson, 2004).

Notwithstanding this fact, finding clinicians off the traditional scholarship treadmill because they erroneously think that they do not have time to write and publish may inevitably discourage academics and practitioners alike from getting involved in clinical programmes. Any efforts at creating and sustaining a clinical programme would be

significantly affected if such a mindset can prevail within a legal academy. The overall view in the literature review is that there is therefore, a critical need for clinicians to desist from getting held back from the scholarship treadmill because of the burdensome of combining theory and practice inherent in clinical pedagogy. Clinicians, just like their traditional academic colleagues should keep on writing about the clinic and their experiences regardless. Bloch (2004: 16-17) has even suggested that “clinical faculty can argue for a wider definition of scholarship than their traditional academic colleagues by pointing out the broad social and professional goals of the clinical movement and the relative richness and complexities of the clinical teaching method.” In Bloch’s view, problems only arise when clinicians try to distinguish between writing about clinical teaching and the traditional law teaching.

Bloch has noted that the result of such a distinction give rise to two dilemmas from an institutional perspective, “rejection of the distinction by the faculty, followed by a ‘bloodbath’ at the time of promotion or tenure; or acceptance of the distinction, followed by an almost unavoidable second-class status for the clinical program and its faculty” (Ibid: 16-17). The view in clinical scholarship is that clinicians must remained encouraged to write and publish. This, as emphasised in literature, is key to establishing clinical legal education’s rightful place in the legal academy and to assist in reforming legal education. However, a university’s preoccupation with research, rather than teaching, provides little incentive to change (Boon, 1998) towards the creation of clinical legal education programmes and the sustainability of those that are already in existence.

Review Finding 16: <i>Government, political and external interference</i>
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From an interference perspective, the infringement, by external forces, of basic academic freedom such as the restriction to content of clinic litigation, the interfering with basic litigation decisions and the inability of individual clinical programme supervisors to teach what they want (Schneider, 1985) would inhibit efforts at introducing and sustaining clinical programmes. In detailing the attacks on a clinical programme and faculty at the University of Mississippi in 1968, Joy (2005), posits that when efforts to limit the types of clients to be seen at the law clinic and cases that the clinic can handle, such efforts “effectively close the courthouse doors to those unable to find other legal representation” (Ibid: 102). In Joy’s view, political interference in clinical programmes and in this way, becomes “a manoeuvre designed to subvert the normal processes of the rule of law” (Ibid: 102). Closely linked to interference in law schools by external forces, as an impediment to

the establishment and sustainability of clinical legal education, is the notion of placing conditions on government funding in such a way that restricts client representation and case selection. Joy observed that:

“[t]he Governor of Maryland imposed a requirement on the clinical program at the University of Maryland Law School and all other legal organisations receiving state funds that prior to filing any lawsuits against the state the entity receiving state funds must notify the state and attempt to resolve the matter without initiating litigation in court” (Ibid: 91).

Closely linked to funding restrictions as an impediment, is the awkward position law clinic authorities may be forced to take to continue receiving funding to sustain their clinical programmes. To avoid obscurity, law clinics may impose on themselves, albeit involuntarily and inadvertently, internal restrictions on case and client selection for fear of victimisation and/or the outright closure of the clinical programme if they take on cases that conflict with the interests to their programme funders. It has also been argued that sometimes failure to firmly put across a strong case for funding to governments through finding clinical analogues as a way of attracting governmental funding is itself an impediment to the establishment of clinical programmes. It is not uncommon for governments to pour a lot of funding into the training of medical students because saving lives is a compelling basis for government funding at higher levels than is teaching law students to become lawyers (Goldsmith, 2002). Yet the lack of funding for experiential learning produces the risk of bad legal advice and representation which can cause personal, financial and mental distress for members of the indigent communities who suffer from societal inequities.

Interference and attack on the indigent community's ability to access justice is not new (Joy and Weisselberg, 1998) and does manifests itself in the way law teachers must conduct themselves in teaching the clinical component to law students and on how law students learn practical skills in a law clinic setting. There is a view in literature that forging ahead with the creation of new clinical programmes and endeavouring to sustain those that are already in existence, politicians and those who see law clinics as a threat to their own interests would continue to oppose such programmes and in the process, present significant barriers that are not congruity to aims and objectives of reforming a legal education curriculum.

Government interference with the operation of law school clinics results in the denial of access to justice by disenfranchised members of the communities and is itself an unwarranted practice that would clearly impede the creation and sustainability of clinical

programmes (Joy, 2011). An example of such interference has been provided by Joy when he noted that:

“... a law school clinic representing clients against the interests of a large poultry company spurred some legislators to introduce a budget amendment to withhold funds from the University of Maryland unless its law school disclosed information about its client and how clinical programs at other law schools operate” (Ibid: 1087).

Attacks on law school clinics over their legal representation of a clientele, be it at individual level and/or at organisational level (Kuehn and McCormack, 2011) can impede the successful creation of clinical programmes and the viability of existing ones if such individuals or organisations are perceived by powers that be as controversial and unpopular. The gatekeepers in the form of university and faculty leaders will need to satisfy those stakeholders that agreed to fund the clinical programmes in the first place through results of the operations of the law clinics. Because of the pressure for results and need for programme continuity, the gatekeepers would feel compelled to impress the powers that be who would have a vested interest in the law clinic's clientele and the cases the clinic handles (Hardaway, 1982). It has been noted in literature that sometimes, to be successful in creating and sustaining a clinical programme, it may be important to please the funder. Inevitably, this approach means not taking on clients that are viewed by funders as controversial or community cases that impact negatively on the interests of the funders.

The potential to undermine the establishment and sustainability of clinical legal education is more pronounced in situations where there is a widespread of interference in the running of higher education institutions by external organs particularly those in the corridors of power. Political interference may be a significant factor and is more prevalent in developing countries, particularly in conflicted countries and/or fragile states where political power is wielded through the control of every institution, public or private. Certainly, in countries where there is no respect for the rule of law and no equality to justice, certain cases that are viewed by the government as setting precedents that are not in line with government policy may never be heard let alone be brought forward so that those clients can have access to justice. Kuehn and Joy (2003) have both observed that clinical programmes are always under political attack from outside interference. They both argue that political interference is typically designed to prevent public lawyering litigation of certain types of cases that may be counter-productive to the aims and objectives of preserving the status quo of breaches of basic human rights and the progressive erosion of the rule of law. According to Joy (2005) the negative effect of such an interference, however, is such that it would deny those clients who are unable to pay for legal

assistance access to the courts. Meddling in the affairs of the law schools' law clinics, especially when they provide a platform upon which the voice of the defenceless and the oppressed can be heard, will certainly present significant difficulties in the establishment and sustainability of clinical programmes.

Sometimes, in rarity of course, clinical legal education programmes can be successfully created and sustained under an authoritarian government. In Chile, the University of Chile's Diego Portales Law School and the Catholic University all had thriving clinics whilst General Pinochet held power (Wilson, 2002). The mind-blowing question to ask is how did clinical programmes such as the three, seen by many, as perhaps antithetical to repressive regimes take centre stage and thrive alongside autocratic rule. The answer seems to lie in the initial campaign strategy of Pinochet. In pursuit of a new trajectory of accelerated economic growth amidst extreme poverty, Pinochet formulated a hugely aggressive housing policy that targeted the Chilean poor and in the process resonated well with the ideals of the foundations upon which the Chilean law clinics were founded upon. As would be expected in authoritarian regimes, the judiciary bench was sympathetic to the ideals of the regime and so it followed that important cases affecting the indigent communities would be lost in favour of the regime on that basis. On the other hand, "routine legal matters of the poor, such as those handled by the clinical programs, were accurately seen as insignificant to the exercise of military power, whatever, their outcome" (Ibid: 577). This is a good example of a clinical movement that grew and was driven by factors that were not from within the corridors of the law school from which the clinics operated from but from external corridors of power. Wilson, (2002) sums up the reasons for clinic sustainability in such a suppressive atmosphere:

"There are explanations, however tentative, for why the clinics there chose to consistently take routine cases during a repressive regime, and why those same clinics were able to limit their caseloads to some extent, when they wished to do so, due to the existence of a relatively strong structure and institutions for state funded legal services for the poor" (Ibid: 581).

This is a good example of a clinical programme that grew, thrived and survived throughout a period of political upheaval and repression; a fact which ought to "constitutes a clarion call to law schools hesitant to undertake the creation of clinics in period of instability or transition" (Ibid: 582) particularly in fragile or conflicted states. Yet, where proponents of the law clinics are viewed with suspicion by the faculty, university leaders and the target country's government, security related issues may also prove to be among the most difficult hurdles to deal with when considering implementing a clinical programme in a fragile state. The challenges are prominent especially in conflicted jurisdictions. For

example, Hamoudi (2005) has noted that due to the armed conflict that continued in Iraq throughout the duration of their clinical project in 2003, they expected that security related concerns would be among the most daunting for them as he explained:

“Security was a significant concern everywhere ... At Bagdad University’s College of Law, located in the nation’s turbulent capital and in an area of the city, Adhamiya, where insurgents and coalition troops frequently clashed, it became immediately clear to us that any program we sought to implement would be significantly limited due to security” (Ibid: 10).

The view taken in literature is that, for clinical programmes to be successfully created and sustained, decisions in the selection of cases, what to litigate on and who to represent should be the purview of the institution running clinical programmes and not an ideology from those above, in corridors of governmental power, in control of universities and/or external funders of the institution’s clinical programmes.

Review Finding 17: <i>Jurisdictional policy on higher education</i>
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It has been said in literature that government policy on higher education plays a significant role in either the success or failure of establishing and sustaining a clinical programme (Giddings, 1999), particularly where the legal education curriculum is designed by the government and not by the institution running it. According to Hamoudi (2005), the courses that each student must complete in order to graduate in Iraq, are set by a Curriculum Committee consisting of deans from each law school. However, the courses must be approved by a Higher Commission consisting of the Minister of Higher Education and Scientific Research. In such a scenario, therefore, the buck stops with an external organ and not with the faculty and/or university leadership. If the deans do propose a change to the curriculum or an addition to it, the Minister may disapprove and thus limiting the scope of creating and expanding a clinical programme.

Such a policy would present significant difficulties in any efforts to create clinical programmes particularly if the ability of institutions to innovate and introduce other subject electives alongside the core subjects required for an award of a law degree are so restricted. Such an inflexible curriculum and lack of elective courses will limit the prospects for any clinic based learning initiative. Thus, where such a rigid curriculum can remain as a prominent feature of a university or a higher education policy, any attempts at establishing and sustaining a clinical programme will be met with significant difficulties. On

the other hand, for a clinical programme to be sustained, it is imperative that a government contributes to the ongoing development of clinical programmes. For example, the federal government in Australia has contributed to the community service focus of Australian clinics through its financial support of clinical courses at Griffith, Monash, Murdoch and the University of New South Wales (Giddings, 1999). Funding is instrumental in sustaining already established clinical programmes. Giddings has noted that “after funds were provided for a three-year pilot clinical partnership with Murdoch University in 1996, support was extended to cover four clinical programmes in 1999 and has continued since” (Ibid: 54). In this regard, clinics are therefore able to meet an unmet need through the delivery of inexpensive legal services to indigent members of the community who otherwise would not afford lawyers.

The failure by the people responsible for policy formulation to realise that law schools are the cornerstone of legal reforms would impede the establishment and sustainability of clinical programmes. The bridge between theoretical education and experiential learning provide law students with an opportunity to acquire specialised legal knowledge and an opportunity to acquire lawyering skills and an acceptance of professional values necessary for solving real-life legal problems (Joy, 2005). The recognition and acceptance of the important role played by law students in the delivery of legal services is significant in the establishment and sustainability of clinical programmes. In the United States, law students undertaking clinical legal education as part of their legal education can practice law under the Student Practice Rules and this policy widens the scope for clinic creation and sustainability. On the other hand, where the sole prerogative of determining the university’s legal curriculum lies with the government, such a policy would undoubtedly present significant difficulties in the creation and sustainability of clinical programmes. There is therefore, a clear demonstration in the literature review of the need to emphasise the importance of a jurisdictional policy on higher education that articulates the essence of ongoing development of a clinical programme. What the literature is suggesting here is that the creation and sustainability of a clinical programme is highly likely to be inhibited where, for example, there is the final decision on what must be in the legal education curriculum is the responsibility of the government as noted by Hamoudi in Iraq.

Review Finding 18: <i>Staff-student power relationships</i>
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It has been said that developing a legal pedagogy that incorporates a clinical teaching element is a major challenge to the establishment and sustainability of clinical

programmes. This seems particularly pronounced especially in law schools where the traditional teaching method is the lecture and/or seminar type of delivery. On a clinical legal education implementation mission to Iraq, Hamoudi (2005) noted that in each of the many classes that he and his colleagues attended during their visits, the method of instruction was exclusively lecture. Student performance was evaluated entirely on whether they could memorise and regurgitate what they have been told by their lecturers. The problem with this type of method of instruction is that it does not allow the student-lecturer type of discussions that are apparent in clinical programmes. Not only does this type of instruction promote student passivity in their learning processes but it also creates the deference students are expected to give to their lecturers. Hamoudi observed that in Iraq law schools “students stand as the professor enters, sit only after he or she instructs them to do so, and remain in their seats after the lecture until the professor exits the classroom” (Ibid: 7). In such instances, it is doubtful that an effective clinical programme would be successfully implemented and sustained where lines of deference are clearly marked.

It is therefore clear from literature that staff-student power relationships are a potential impediment to clinic creation and sustainability particularly in situations where there is a strong belief in the traditional model of legal education, in which students learn in passive and minimal interactive manner (Hamoudi, 2005). It is normal that in such instances favourable opinions of the students may not be held in the same regard as those of their lecturers in case handling. It is therefore clear that some legal academies who are quite hierarchical in nature would become fertile grounds for creating tension between students and staff with students where the latter rise from seats when a lecturer enters the room, stand at attention and only sit when told to do so by the lecturer. Therefore, any attempts at trying to free up the processes required of universities to establish and sustain clinical programmes where deference to tradition is the norm would be met with a strong resistance and feelings of abhorrence on the part of students (Martinez, 2012).

Review Finding 19: <i>Types of students selected for the clinic</i>
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A student who has the desire to get involved with free legal advice and representation to meet an unmet legal need is an ideal candidate for selection into clinical programme training. However, little input from students regarding the nature of clinical legal education or the costs and benefits it brings (Lynn, 2005) is a tragedy every law school with a clinical programme, should avoid if new clinical programmes are to be fostered and existing ones

sustained. Lynn, a former student at Northumbria University's award winning Student Law Office explained why during his studies at the institution, he and a group of other students organised the first student conference on clinical legal education at Northumbria University in December 2004:

"Northumbria students spend a great deal of time in the Student Law Office, through clinical modules at Northumbria, and constantly reflect on their personal and professional development. Yet relatively little time is spent considering the way our clinical education is structured and delivered and what its aims and objectives should be. We saw the conference as an ideal opportunity to explore these wider issues and, more importantly, to involve students and staff from other institutions in this dialogue" (Ibid: 69).

Lynn's quote above encapsulates one of the attributes a law student working in a clinic must have, i.e. the ability to reflect on the experience. This is a good example of a desire by law students to be involved in providing indigent members of the community with a platform for accessing social justice. In Lynn's view, students who work in a legal aid clinic are enthusiastic about their experience. They are self-motivated and often highly committed to the work. They are more responsible for what they do and how they do it. Thus, such views by students engaged in clinical programmes would help in reducing feelings of disenchantment with the old tradition of teaching and learning substantive law through a lecture and/or seminar method. Commitment by students can invigorate the sustainability of clinical programmes and indeed the creation of new ones. However, others have frowned upon the idea of institutions leaving the running of clinical programmes in the hands of students (Mokidi and Agdebaku, 2012).

It has been noted that student maturity plays a significant role in the establishment and sustainability of clinical programmes. The younger students are on entry into university programmes, the greater the challenge of implementing such programmes. For example, in Iraq, a law degree is normally obtained at the undergraduate level where most first-year law students are 17 years old (Hamoudi, 2005). There is no doubt that it would be a concern to have a 17-year-old interviewing a real client with real-life legal problems. Some clients might find it inappropriate to be interviewed by a first-year student, still fresh from high school, who may not have proper professional skills to make the interviewing useful for the client. Therefore, it is crucial that the issue of age is considered in the creation and sustainability of clinical programmes (Qafisheh, 2012). Perhaps to ameliorate maturity concerns, the University of Northumbria's faculty of law only introduced its students to their clinical programme at the latter stages of their vocational training (Sylvester et al., 2004).

Whilst the Irish universities may be quite happy in engaging academic staff with PhD qualifications and hence adopting an academic slant within their law schools, Donnelly (2008) has noted that students in Ireland were not particularly enthusiastic about such an approach that clearly features no practical experience within the legal education curriculum. This type of prioritisation of intellectual formation through the traditional method of teaching substantive law does present significant difficulties in establishing and sustaining a clinical programme. This problem is also exacerbated by routes to qualification as a lawyer in Ireland. In some jurisdictions law students go through the law school first and get taught analytical and research skills before graduating with a Bachelor of Laws (LLB) qualifying law degree which then enables them to embark on another course which is vocational and professional practice oriented. Such a dichotomy can be rigid and trying to implement a clinical programme in such jurisdictions may create logistical difficulties inhibiting the scope of clinical programmes. On the other hand, students might arguably not quite like spending three years learning the theory of law and being fed with legal information that they cannot use in practical terms during their studies. It is important to note that not all students will come to the legal academy to be trained as academics but to be trained as lawyers (Dolin, 2008). In view of the Irish authors whose work the researcher reviewed, it is the student's disenchantment with the traditional method of teaching law, a lack of more practical skills such as how to handle clients, how to draft basic legal documents and how to operate a law office, that ought to give rise to a move towards a clinical pedagogy.

Closely related to the type of student suitable for a clinical programme as a factor in the establishment and sustainability of clinical programmes, is the equally important requirement for students to assume responsibility for their actions when handling cases and dealing with client care. In clinical programmes, students are compelled to recognise that their actions will influence the well-being of others, namely their clients (Giddings, 2008). If this recognition is absent then efforts to sustain a clinical programme would be inhibited. In Giddings' view, it follows from the touchstone of realism that every student in role of a legal representative must bear the responsibility for the resolution of their live client cases. Thus, for a clinical pedagogy to be functional it is imperative that, a student who is invited into the relatively uncharted waters of instructions taking and advice giving must do so with a safety net of support structures involving preliminary preparation and close supervision by a supervising clinician (Giddings, 2008). Giddings is proposing that students must be provided with the opportunity to take greater control over their future learning as they test for themselves the best ways to approach issues and problems in the cases they handle. It is such a responsibility which will assist law students in developing a framework for how they will approach the need for ongoing learning and development

throughout their professional life. Therefore, in our endeavour to create and sustain clinical programmes, it is crucial that we consider student responsibility as a relevant factor.

Student pressure in responding to social ills facing the disenfranchised communities is itself an influential and relevant factor in the creation and sustainability of clinical programmes. For example, in the United States, it has been noted that the major impetus for clinical legal education came because of student activism and the pressure they exerted on reforming legal education (Stuckey, 1996). Historically, the mid to late 1960s was the era of civil rights activism and this affected law students' attitudes towards their education and simultaneously instilled into them the "interest serving the underprivileged and in restructuring society" (Ibid: 653). What literature seem to be suggesting here therefore is that the type of a student suitable for a clinical programme is one who understands client care principles, can handle the pressure of case managing and case progressing and has also the agility to shoulder the responsibility that comes with such work.

Review Finding 20: <i>Student enthusiasm or lack thereof</i>

Literature has widely reported on legal training transformations taking place within a legal education curriculum and attributes part of the success of the transformation to a complete participation, responsibility and commitment on the part of the students who have always been social active and responsible for much of the development of clinical legal education (Stuckey, 1996; Gavigan, 1997). Thus, input into clinic work (Lynn, 2009); the notion of practical experience (Donnelly, 2008); disenchantment with the traditional method of teaching law (Dolin, 2008); lack of assessment of the clinic work (Castling, 2000); student autonomy (Sylvester et al., 2004) and inadequate time for client contact and work (Lasky and Prasad, in Frank Bloch (Ed.) 2011) have all been found to be influential in either promoting or impeding the creation and sustainability of clinical programmes within a number of law schools across jurisdictions.

It has been said that part of the success of clinical legal education is its objective to increase access to the legal profession for students. So much has been said and discussed in literature regarding the benefits which come with a law degree curriculum that includes an element of clinical component. Yet, an important aspect in considering the failure or success in sustaining a clinical programme lies with the faculty's ability to assess the commitment of students throughout the process of educating them as future

lawyers. Across the globe, new law schools with young academics and socially active students were responsible for much of the development of clinical legal education (Gavigan, 1997) and in the process proving that student enthusiasm is itself one of the relevant factors that ought to be taken into consideration in the creation and sustainability of clinical programmes.

However, enthusiasm of law students in taking a clinical programme may turn into an impediment in the establishment and sustainability of such a programme if it is not offered as credit-bearing module, the student teacher ratio is too high and there are no set protocols to control the selection of the option by students. In South Africa, du Plessis (2008: 121), noted that the “inadequate education system, of which the majority of the black people are, is a legacy of apartheid that affects both the clinic clients and students.” In tracing the establishment of a law clinic at the Cluja-Napora in Romania, Gidro and Reboreanu (2005), observed that about 100 students on the programme had opted for the clinical module for different reasons. The two authors have acknowledged that having no set protocol in choosing the students for the optional clinical course, the establishment of the Romanian Juridical Clinic, made their mission very difficult. It is not hard to see how their mission was hard. An extra demand on the hours to be worked with that large group of students and without extra remuneration is not by any means an easy task and it is such difficulties that would limit the scope of clinical programmes. However, where human resources are available, it has been suggested that students work more effectively even when there are many of them (Spencer, 2002). Students respond very well to the interactive methods of teaching and the interaction amongst the group “and the enthusiasm is contagious” (Ibid: 22). However, a problem that may inevitably impede the viability of clinical programmes is the lack of assessment of students who work at the clinic on a voluntary capacity and as such clients’ cases may be dealt a big blow of inadequate preparation and lack of client care if the aim of the student is merely to get a good grade (Castling, 2000). In Croatia, it has been noted and reported that students working at Rijeka Law Clinic lacked enthusiasm for the live client work carried out at the clinic because the clinical component was never incorporated into the grading scheme (Austermiller, 2003). It was therefore inevitable that such students would have less incentive to participate in a programme that would not contribute to the final grading of their law studies.

Sylvester et al., (2004), established that student autonomy was crucial in the education of law students and itself, an influential factor relevant in the establishment and sustainability of clinical programmes, particularly so in the selection of cases for the clinic. The introduction of the Problem-Based Learning model into the third-year of law degree at the

University of Northumbria's school of law increased law students' autonomy to study cases in their fourth-year. These authors have reported that previous experiences had shown them that their previous students engaged with their clinical programme had been ill-prepared for handling cases as they depended heavily on their Student Law Office supervisors. Empirical work carried out at the university through evaluation questionnaires showed positive responses to Problem-Based Learning. The three authors' view, is that their students' confidence was increased in skills training and thus became well prepared for case handling. In describing the clinical movement in South East Asia and India, Lasky and Prasad in Frank Bloch (Ed.) (2011: 43), posit that "because clinical legal education is a new and unfamiliar concept to many university faculty and staff, clinical programmes face great hurdles in securing adequate faculty support for approving the programme as credited course." In their observations, the two authors noted that because of lack of giving law students credit for their clinical work, many universities in the region did not provide adequate time for their students to participate in clinical legal education activities. They argue that, "the lack of full accreditation poses the problem of requiring an increased workload from the students while not giving them course credit in return" (Ibid: 43).

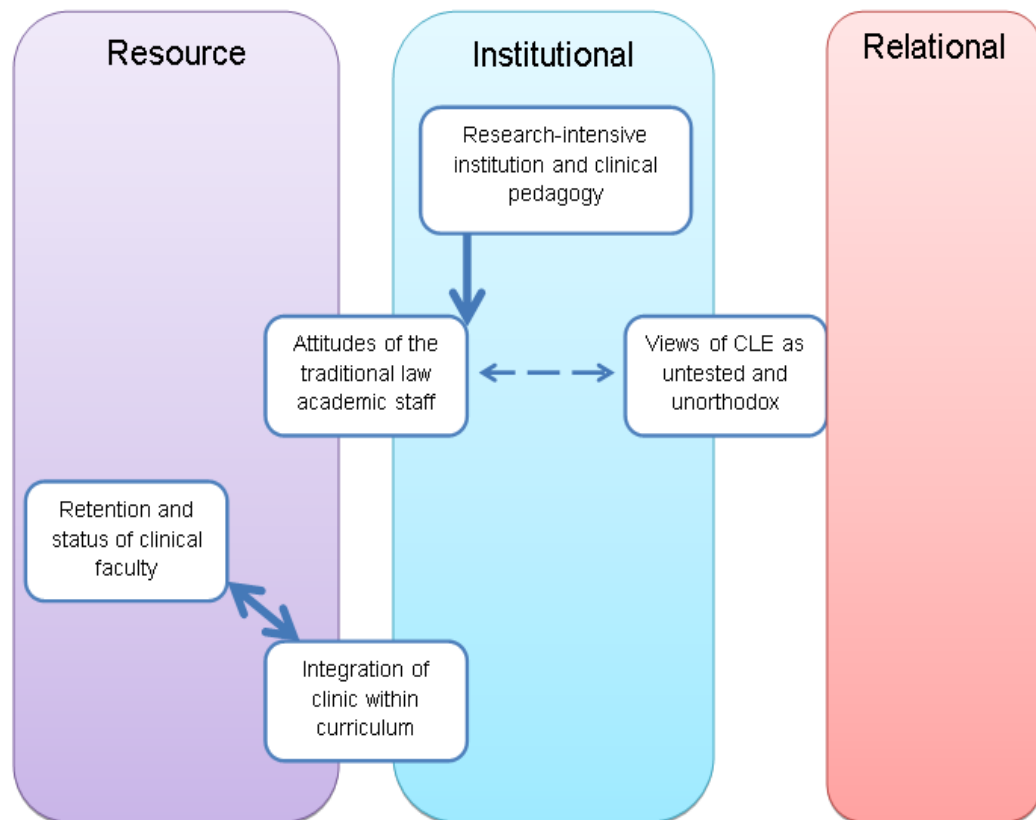
What is demonstrated in the literature reviewed by the researcher is that where there is a lack of accreditation of the clinical programmes in the legal education of students, it is certain that efforts at creating and sustaining a clinical programme will be presented with significant difficulties. Literature therefore reveals that even where students have been selected to go through a clinical programme as part of their learning, it is still important that they are constantly motivated if the programme is to be sustained. Therefore, if enthusiasm is to be cultivated and maintained, it is crucial that the clinician's role in clinical programmes become more facilitative and help students discover solutions for themselves rather than view students as sponges reactively soaking up theories of law and legal information.

4.3.3 Selective coding categories into a core category: theory generation

The next stage involved a process that determined a central category or phenomena in which the coding process moved a higher level of categorising themes into abstraction that began with the conceptualisation of a "story line" (Strauss and Corbin 1990: 119). Where axial coding was about finding the relations between categories and their sub-categories, selective coding on the other hand, was the process of identifying and developing relations between the main categories (Wolfswinkel et al., 2013). The

researcher began to theorise around the factors relevant in the creation and sustainability of clinical programmes. The screenshot in figure 2 is an illustration of a process in which the researcher selected and identified three main thematic categories, systematically related them to each other and connected them to the other categories; a process which ultimately led to the emergence and selection of a key category.

Figure 2 The three thematic categories: towards theory generation

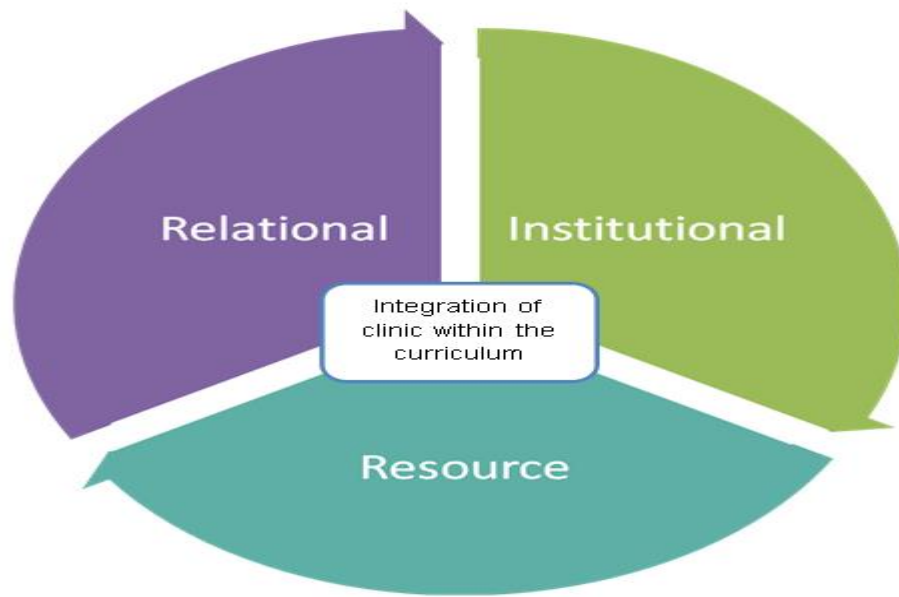


The core category [*Resource*] became the central phenomena around which other themes and categories were based upon including a central category around which the researcher's final analysis of the literature was based. As can be seen from above, the selection and identification of the core category involved explicating the storyline through an analysis of the core category. The screenshot is a good example of how the researcher experimented with the 20 axial categories as a platform from which he could then select a key category. He made good use of the lines between the three thematic issues because what he discovered is that there are some categories that could potentially belong to two different thematic issues at the same time. This observation was also an outcome of a discussion from an interactive session the researcher held with colleagues involved in

clinical legal education around Europe when clinicians converged at a European Network for Clinical Legal Education (ENCLE) spring workshop hosted by the Law School at the University of Northumbria on the 15th and 16th April 2015. With an ethical approval; full information given beforehand and consent forms signed by workshop participants, the researcher took an opportunist advantage of the presence of European colleagues to explore coding issues from his systematic review work. The feedback the researcher got after his presentation at the workshop was that some of his identified factors overlapped between the three thematic groups.

For example, the category, *'Attitudes of the more traditional law academic staff'* sits in between [Resource] and [Institutional]. This is because such attitudes, as influenced by the category, *'Research-intensive university and clinical pedagogy'*, can inhibit the potential for a clinic to access funding needed for the operation of a clinic. Such attitudes could also be influenced by the priorities of the mother institution at both faculty and organisational levels particularly if the mission of the mother institution is built upon a desire for its faculty to spend more time undertaking research than teaching. Such attitudes may also remotely be associated with *'Views of clinical legal education as untested and unorthodox'*. This category also sits between thematic issues, [Institutional] and [Relational] because sometimes such views might be influenced by the priorities of the mother institution and in the process creating rifts in relationships amongst clinical faculty and traditional law academics. The data collected from the workshop also revealed that at other universities where there is a clinical programme, a category may even sit within the three thematic issues as illustrated below by the pie chart in figure 3.

Figure 3 Interrelating categories with the three main review themes



For example, the category '*Integration of clinic within the curriculum*' as a factor to consider in the establishment and sustainability of a clinical programme may be affected by lack of resources within the faculty; by the priorities of the mother institution and indeed by an external and/or internal resistance from stakeholders. As proffered by Strauss and Corbin, textual data analysis from each article was given a thorough fracturing in open coding, relating and integrating in axial coding; selecting and integrating in selective coding. Codes and labels were generated in all excerpts. A total number of 20 axial categories were formulated as factors relevant in the creation and sustainability of clinical programmes. They were connected, compared, related and arranged in three thematic topics [*Resource*]; [*Institutional*] and [*Relational*]. This iterative process involved finding relationships between axial categories; filling in; refining and developing the 20 categories around the three thematic areas. The three thematic issues were refined leading to [*Resource*] being selected as a core category around which a storyline was built with regards to clinical legal education and the factors relevant in the establishment and sustainability of clinical programmes. This process was so effective that it consequently explicated a storyline (Strauss and Corbin, 1990) that prioritised one category, [*Resource*] over all others. The most interesting thing about having chosen [*Resource*] as a key category is that all other categories could easily connect to it and a story could be constructed around it too. This core category seemed more central because it explains the other themes and categories around it. Consequently, the process assisted the researcher

to build a story around the selected core category as an influential factor relevant and crucial to consider in our efforts to create and sustain clinical programmes.

4.4 Clinical scholarship storyline: towards conceptualisation

The process of picking and selecting a core category was a painstaking process. Trying to choose a core category from 20 axial codes involved a lot of brain processing and the refining of these categories. Even though three thematic issues around which the 20 categories were connected, selectively relating the three main thematic categories to the other 20 categories and refining them to have just one key category around which to build a story line presented its own challenges at first. It was hard settling for one core category because potentially the researcher had three core categories [*Resource*], [*Institutional*] and [*Relational*]. Whilst there is no problem in having two or three core categories around which to build a story, the consensus is that a grounded theorist must endeavour to have one core category (Strauss and Corbin, 1990, 1998) which the researcher can then use to build a story around it using related categories. The key in choosing [*Resource*] as a core category, was to build a narrative of what could be the theory around factors relevant in the establishment and sustainability of clinical programmes within law schools. Once validation of this core category was tested against the findings of data collected from fieldwork, the process completed the grounding of the theory.

Throughout the whole process of coding as explained above, from when concepts began to emerge when the researcher started labelling excerpts through open coding; from when he continuously compared, related and linked codes through the process of axial coding and up to when he refined 20 axial categories to choose a core category through selective coding, he was engaged in a process of *constant comparative analysis* (Wolfswinkel et al., 2013). The comparative analysis process was based on similarities and differences of the different factors identified from the clinical scholarship reviewed. Thus, open, axial and selective coding procedures were used to continuously refine the formulated concepts and the identified categories. Undertaking such analytical coding steps meant that the process had to be iterative. The researcher had to go back and forth between journal articles, excerpts, concepts, categories and sub-categories to generate theory from textual data.

The process of *theoretical sampling* combined with the constant comparative method was a significant strategy used by the researcher in the development of grounded theory (Glaser and Strauss, 1967). So, when the researcher randomly read his chosen list of papers and had preliminary results emerging around what sort of factors influence the

creation and sustainability of clinical programmes, he was already engaged in a process of theoretical sampling. The question he had to deal with was: *what else do I need to read to understand more about the influential factors relevant in the establishment and sustainability of clinical programmes?* The preliminary results from the open coding guided the researcher's consecutive reading and analysis of the remaining batch of journal articles by following a purposeful and systematic approach. In the axial coding stage, the researcher incorporated sampling in a more structured systematic approach to validate relationships between labels and codes in the formulation of 20 categories. Category saturation became the criterion of theoretical sampling in axial coding stage. Finally, the selective coding process, specifically sought a more deliberate agenda of sampling to assist in the testing and the integration of 20 axial category findings until the point of saturation (Strauss and Corbin, 2008). In this way, theoretical saturation became a criterion of theoretical sampling in selective coding.

Theoretical saturation had occurred when the researcher re-read papers and came across the same factors identified elsewhere in the 91 journal articles he chose for the review. All categories became saturated. Saturation was reached "when no new insights, properties, dimensions, relationships, codes or categories [were] produced even when new data [were] added, when all of the data [were] accounted for in the core categories and sub categories" (Glaser and Strauss, 1967: 61). Once again, the researcher found himself momentarily stepping out of the research process, engage in self-talk and asked himself a question, thus: *When do I have to stop gathering data from the chosen clinical scholarship?* As he paused, he pondered took time to listen to his inner voice: *what criteria do you use?* Looking back at the analytical coding processes, he decided that theoretical saturation would be the end of his theoretical sampling in selective coding which he achieved via a constant comparison analysis; itself a signature sampling and analysis strategy in grounded theory. The researcher stopped when his categories were saturated. Saturated took effect from when data neither sparked new theoretical insights nor revealed new properties of the core theoretical categories. The use of the coding techniques as described above instilled in the researcher some form of insight around the area of clinical legal education. As he read the articles, he developed concepts and gave meaning to the textual data around the factors relevant in the creation and sustainability of clinical programmes. By so doing he was already engaging in *theoretical sensitivity* and in the process developing his ability to work with textual data in both theoretical and sensitive ways (Glaser, 1978). The researcher achieved theoretical sensitivity when he looked at and analysed a word, phrases and sentences in his textual data, questioned the meanings and compared categories. The ability to build insights through being theoretical

sensitive of the textual data resulted in familiarity with certain concepts in the field and led to the researcher becoming critical of the reviewed clinical scholarship.

4.5 Reviewed clinical scholarship: a critique

Sometimes, it is easy to believe that we understand why clinics are formed and how they last often justifying our understandings by calling it common sense. Consequently, we end up not actually engaging in a systematic way to understand our field and hence the lack of objectivity in the reviewed literature regarding the benefits of clinical legal education. Reviewing clinical scholarship was useful for obtaining a better understanding of why law clinics are created and how they last. Faced with an enormous amount of clinical scholarship and to locate specific and relevant articles that identify factors that are influential in either promoting or impeding the establishment and sustainability of law clinics, the researcher systematically searched for journal articles by using a strategy that located, appraised and synthesized the best available evidence relating to the research question (Boland, et al., 2014). In the process 20 themes were identified from literature as highlighted in the previous section. This section provides a critique of a batch of the 91-published clinical legal education journal articles systematically selected in Chapter 3 and analysed in the previous section of this chapter. The review was undertaken to identify factors that have been influential in the establishment and sustainability of clinical programmes in different jurisdictions. The review indicated that there were various positive and negative factors influencing the creation and sustainability of clinical programmes. Enabling factors were most frequently related to intervening conditions such as, for example, the availability of a healthy financial base upon which a clinical programme was built. Impeding factors were most frequently associated with intervening conditions such as resistance to clinical pedagogy. The systematic review of literature revealed a wealth of knowledge on key aspects to consider while founding a clinical programme. However, there are still critical knowledge gaps requiring our attention. To fill in the knowledge gaps identified through the review, this section proposes that we consider undertaking empirical research on clinical legal education on a wider scale rather than just limiting our writing on personal experiences. Such an approach would result in writers adopting a more objective stance in narrating the benefits of clinical legal education and in the process help foster more and effective strategies on the creation and sustainability of clinical programmes.

There is no doubt that many, including the researcher, firmly believe that the benefits of clinical legal education transcend borders. Clinicians all over the world try to make legal

academies and the legal profession more permeable to the advancement of social justice and the preparation of students for law practice. A great deal of clinical scholarship has focused on the importance of clinical legal education in educating future lawyers worldwide. Indeed, all authors whose journal articles the researcher reviewed do acknowledge the necessity for the integration of a clinical component within the mainstream legal education curriculum. In addition, the literature has revealed a plethora of certain factors that have been influential in the establishment and sustainability of clinical programmes around the globe. While it may be true that one needs common sense and familiarity with debates on clinical pedagogies to understand the obstacles in the creation and sustainability of clinics, the explosion in clinical scholarship makes this exercise a futile attempt. The researcher appreciates that there are plenty of books and journal articles out there that address the creation and sustainability of clinics. For a reader and/or researcher interested in clinical legal education going through tens of thousands of journal articles and books is near impossible. Given the pivotal role that research plays in the development of any area of study, trying to unsystematically go through each of the journal articles searching for information that addresses the formation and sustainability of clinical programmes would certainly entail a lifetime of catch up with the ever-expanding clinical scholarship. To address this, clinicians and academics must establish ways of evidencing the clinic and the role it plays in society in an objective way. The ever-expanding literature on clinical legal education calls for a systematic approach to literature review that goes beyond everyday common sense in understanding the field. As can be seen above, the analysis of the selected papers revealed a plethora of influential factors influential in the establishment and sustainability of a functional and operational clinical programme within a law school. Understanding and working through the graphic symbolic mapping of the 20 factors illustrated below in figure 4 before introducing or implementing a law clinic saves time and spares the law clinic from strained relations with students, clients, courts and community groups. The following is a synopsis of the most fundamentally questions that we need to critically think about, carefully reflect upon and systematically address in our efforts not only to sustain clinical programmes but also to foster new ones. However, the success in establishing and sustaining a clinical programme lies in the recognition, understanding and appreciation of the fundamental differences in each law school's mission, vision, human and financial resources and the academic goals of the mother institution in relation to the community it serves.

Figure 4 A map of the 20 influential factors from literature



Key

RED – Financial and Human Resource factors

GREEN – Relational (external) factors

BLUE – Relational (internal) factors

PURPLE – Contextual factors

YELLOW – Combination of relational (external and internal) factors

For want of space, it must here suffice simply to offer a critical discussion of literature based on three main thematic categories, i.e. relational, resource and contextual.

4.5.1 Relational factors: partnerships and stakeholders

A review of the available literature provided a wealth of examples of authors advocating clinical legal education as an essential tool in educating future lawyers. Taking collaboration, for example, as a factor to consider in the creation and sustainability of

clinical programmes, it appears problematic, to identify exactly how collaboration between different stakeholders within and outside the university can be managed to become an integral part of developing clinical legal education where different stakeholders have different views about the clinic. There seem to be a lack of studies that critically evaluate the need for connection between the clinic and community in deciding cases for the clinic. There remains a question of whether a pro-active community involvement will contribute to the sustainability of clinical programmes or the fostering of new ones. It seems that the key requirement of community engagement for the selection of cases for the clinic is not as straightforward as we may have first envisioned. Literature suggests that the mother institutions primarily decide what cases to pick from the community. The researcher suggests that we need to go out into our communities; engage with service users and have more case studies with an appreciate enquiry to inform how a community participative approach would be relevant in making legal service delivery more responsive to local needs. Further research should provide a platform for an effective legal education of our students and a framework for successful community involvement. Future clinical programmes need clarity about the purpose and scope of community involvement in selecting cases for the clinic and hence we need papers that evidence such a selection from the perspective of the community in tandem with different stakeholders (Mkwebu, 2016).

While the global clinical movement is a well-established network of clinicians, what remains unresolved is the nature of a satisfactory theoretical explanation of student enthusiasm as a factor relevant in the establishment and sustainability of clinical programmes. Whilst the number of law clinics that have so far been created across jurisdictions; the number of clinicians so far appointed globally and the current explosion of clinical scholarship all reflect a great achievement of the global clinical movement, others have observed that in the last few years, students interest, funding and scholarly attention to the legal profession has faded unabated. They attribute this change to the mission and ideology of the law school clinical programmes remaining entrenched in the concept of social justice lawyering that is heavily dependent on rights-based strategies at the expense of the education objective. Placing more value on one and less over the other objective creates hurdles in developing stakeholder partnerships which the researcher believes students should be part to. Student enthusiasm for a clinical pedagogy must be viewed as a crucial factor in the creation and sustainability of clinical programmes. The researcher believes that such enthusiasm can be captivated when we give our students an opportunity to question our teaching methodologies or inherently societal concepts such as, for example, the use of clinic as a vehicle for the advancement of access to social justice and then evidencing this in the papers we write. Otherwise, we end up

having to deal with criticisms that the work we do in the clinic is just one part of a process whereby our students come to accept what we tell them (Kennedy, 1998).

Quite a lot of material has been written on the benefits that accrue from a law degree curriculum that has a clinical component dimension to it and yet an important aspect to consider is the faculty's ability to assess the commitment of students throughout the process of educating them as future lawyers. Socially active students were responsible for much of the development of clinical legal education and therefore proving that student enthusiasm is itself one of the relevant factors we ought to take into consideration in the creation of clinical programmes. However, even where students have been selected to go through a clinical programme as part of their learning, it is still important that they are motivated if the programme is to be sustained. A student who has the desire to get involved with free legal advice and representation to meet an unmet legal need is an ideal candidate for selection into clinical programme training. However, little input from students is a tragedy every law school should avoid, particularly when their personal reaction towards clinical pedagogy has not been thoroughly considered throughout their experiential learning process. As clinicians, we should not simply draw conclusions based on what we think is best for our students without considering and evidencing what the students themselves think about the clinic as an educational and service tool. Otherwise, we end up being accused of indoctrination. The researcher suggests, therefore, that we start carrying out more case study research to examine student reflection on clinical pedagogies and where possible provide our students with an opportunity to have some say on the selection of cases for the clinic.

The introduction of the Problem-Based Learning model into the 3rd year of the law degree at the University of Northumbria's School of Law increased law students' autonomy to study cases in their fourth-year. Empirical work carried out at the university through evaluation questionnaires completed by students showed positive responses to Problem-Based Learning. We therefore need to have more comparative studies of similar and different contexts. Reference to enthusiasm amongst the law student community, trying to meet an unmet legal need gives us hope that our students' reflections upon the meaningful lawyering skills may be transformative to their notions of social justice. However, we simply do not know yet whether this is possible because we do not have sufficient evidence to determine the frequency of such change presumably, because of lack of empirical research involving our students. This is not to say that we are not talking or writing about these issues. We do! We simply do not publish enough of it other than our own experiences of what we think is good about the job we do. The researcher has attended several locally and international organised conferences on clinical legal

education and people have stood up on pulpits and spoke about student enthusiasm and surveys they have done. *Where then are those papers?* The researcher has had the opportunity to meet and mingle with other clinicians and authors during such encounters people talk about the good work they have done with students but admit that such work has not yet been published. *Again, where is that evidence?* The data we present at conferences and the conversations we have amongst each other is valuable data that need to be published.

The researcher has no doubt that there is knowledge sitting somewhere in our heads but there is no publication of the same to evidence the good work we do in law clinics. What we have is only talk. Without empirical research that directly uses students as research participants, many questions remain unanswered concerning how we measure student enthusiasm or indeed lack of it. Research on how to achieve an efficient evaluation process that involves the input of our students is yet to begin but Problem-Based Learning models have so far provided a useful road map for field-testing of an evaluation process that involves the opinions of our students. Using case studies as a methodology for research, particularly in gauging reflection from our students has a high validity. However, few studies have used this methodology. Therefore, further investigation and evidence of student enthusiasm should be documented to aid a better understanding of what our law students see as beneficial in their experiential learning.

4.5.2 Resource factors: beyond establishment to sustainability and finances

Despite emphasis on the importance of maximising the benefits accrued using a legal pedagogy that combine theory and practice in the education of students, little has been written on strategies to sustain already existing clinical legal programmes. To appreciate sustainable development as a key objective in the existence of a clinical programme we must examine further and in detail the different strategies we can use to combat against failure of clinical programmes. Literature has suggested the expansion and creative use of membership organisations as one of the many strategies that clinicians around the world may want to use to ameliorate financial problems associated with the establishment and sustainability of clinics. However, we are yet to see evidence of whether those strategies apply to other jurisdictions 10 years after the publication of her article. Sometimes the researcher wonders whether we read each other's papers. *If we do, what do we do about what our colleagues have suggested in their own papers?* A good example of an article that many a clinician have cited but not acted upon the issues raised in it as a global

clinical movement, 7 years after its publication, is one by Julie MacFarlane in 2009. She unpacks the issues earlier clinicians have raised but laments at our collective lack of zeal in resolving them. MacFarlane recalls:

“Looking back at the literature of the 1980’s and 1990’s – until I sat down to write this paper, I had not revisited this literature in many years – two things strike me forcefully. One is that despite the robust tone of so many of the articles, books, and training materials developed during this time, tensions were already emerging. They are illustrated by arguments over the appropriate “status” of clinical faculty alongside other professors, the physical separation of the clinics from the law school, debates over how far the law school should be providing education in practical skills, and general scepticism over the development of a theoretical foundation for practical skills. These discussions were not resolved and continue to play out today” (Ibid: 37).

MacFarlane’s quote above encapsulates the essence of reading widely across what colleagues in the field have written. As clinicians, we ought to remind ourselves of the importance of reading each other’s work around clinical legal education issues. Whilst the researcher appreciates that it is part of human nature to read and ignore information that does not apply to our situations, research papers from colleagues should be our points of reference in our efforts to evidence the work we do in law clinics. A story in Idries Shah’s *Caravan of Dreams* comes to mind (Shah, 1968: 110). One day Ibrahim Ben Adhem a prince who, like the Buddha, gave up the throne of Balkh and left his royal home to seek knowledge found a stone on the ground and picked it up from beside the road. Written on it were the words: - *Turn me over and read*. Therefore, he picked it up and looked at the other side. And there was written: - *Why do you seek more knowledge when you pay no heed to what you know already?* It is one thing to know the key ideas about the benefits of clinical legal education so that we can stand up at both local and international conferences to deliver papers detailing our own personal experiences. It is entirely another thing to know deeply what others have written and suggested in their papers about our field, apply those suggestions to practical situations and then evidence it. Other authors may argue that not heeding and applying what Maisel has suggested as strategies for clinic creation and/or sustainability is because they want to see the clinic in ways that are different from what Maisel saw of the clinic in South Africa. This would be a fair point but the researcher believes that we would be contributing more by clarifying and applying such strategies and evidencing whether they have worked, rather than continuously introducing new information on self-reflection and personal experiences to the already exploded clinical scholarship.

Further research must therefore be focussed on evidence based sustainability strategies so that we can ensure that the current overbearing socio-economic situation does not compromise the future of our clinical programmes. The increasing uneven distribution of wealth away from the public to the private and the many of the few in different parts of the world where there is clinical activity, reaffirms the importance of assessing the impact the economy has on sustaining clinical programmes. Such research on strategies will enable the identification of influential factors and the development of a logical framework that recognises the importance of ongoing development of the clinic. The researcher suggests therefore that we come up with cost-benefit studies quantifying the costs of creating a law clinic. We need quantitative reports detailing the amounts a legal academy would normally need to create and sustain a clinical programme.

Whilst clinical scholarship provides valuable information regarding the positive factors that we should consider in the creation and sustainability of clinical programmes, caution needs to be exercised against just focusing on clinics that are flourishing. We should not assume that the results obtained from studies reporting on our own successful personal experiences can be generalized to different contexts. We must also report on the factors that are influential in sustaining those clinical programmes that are already in existence but are struggling (Binford, 2009). In this crippling economic climate, daunting questions loom large concerning revamping those programmes that are failing. With the current uncertainty facing existing clinical programmes' funding options, it will be precautionary to undertake research and report on current failing clinics to keep them going. We therefore need more research papers that would serve as a guide in enabling organisational change in the operation of a failing clinic through a framework of strategic initiatives. To achieve this, the researcher encourages clinicians and clinical writers to adopt a different kind of reflection and report too on failing programmes.

4.5.3 Contextual factors: clinic as social justice vehicle or as pedagogy

Questions abound on whether we must see clinic as mainly a social justice vehicle or primarily as a pedagogy. The simple answer to this debate is that the movement might arise in the first place from social justice or educational perspectives or indeed a combination of both. Either way, there remains a gap in reporting on clinical activity in certain parts of the world. Reviewed literature describes clinical legal education as a wave profoundly altering the shape and trajectory of legal education in many countries. However, so little seem to have been written on the shape and trajectory of clinical legal

education in fragile and/or conflicted states with unstable democracies. Whilst the literature abounds with examples of interference in the United States, there is still yet no reporting of any external interference with the clinical activity elsewhere, particularly in Africa. The researcher wonders whether this lack of evidence reflects there being no interference in the operations of the African clinic. He wonders also if we should attribute this lack of evidence to reluctance amongst clinicians in writing about this interference because of language barriers. *Could it be because of publication bias by those holding the keys to academic journals that we do not have this evidence? Could it be that our colleagues in Africa fear retribution by those in the corridors of power if they write about interference?* We certainly would not know answers to these questions until we set out to find out.

The researcher suggests that we come up with studies detailing research methods appropriate for use in conflict settings. We need detailed reports of what sort of interference is inhibiting the scope of clinic in Africa. There is a need for us to enter the uncharted waters of some of the conflicted states of Africa, negotiate entry, gain access, research on and record our findings. Grimes (2014) has reported on the role played by clinical programmes in Afghanistan; a country which has been ravaged by internal strife and political turmoil. Most recently, we have had Rosenbaum (2016) also reporting on clinical activity in the same jurisdiction. Even where access has been denied, we should not be deterred in our research endeavours. Failing to access research sites is itself a research finding and we ought to be documenting such endeavours. It is therefore imperative that we start writing about techniques for studying clinics that are affected by conflict. Such research is likely to have valuable practical and/or theoretical implications for the future development of the global clinical movement.

In response to the geographical spread of clinical scholarship, the researcher suggests that further fieldwork needs to be carried out in Africa for us to understand the reasons behind the little clinical activity in that region (Mkwebu, 2015). Even though it is acknowledged that there was grey literature evidence of clinical activity in Zimbabwe prior to empirical research in the jurisdiction, it was unknown whether those factors identified in other jurisdictions as influential to setting up and running a law clinic were valid and applicable to a Zimbabwean context. It is, therefore, this gap in knowledge, albeit from a Zimbabwean perspective, that motivated the researcher to embark on an empirical research on the clinic in Zimbabwe and in the process necessitating a research project which had not been addressed in any given domain before.

A systematic review of literature achieved a clearer view of what factors have been influential in the creation and sustainability of clinical education abroad. Although the

systematic review process did not attempt to manipulate or undermine clinical scholarship, it was used as a method to help understand what evidence we have about the work we do as clinicians. The findings here indicate that there are various factors we ought to take into consideration when we plan to create clinical programmes or indeed sustain those that are already in existence. However, there is a need for us to go beyond establishment and sustainability finances and carry out feasible research on effective strategies in addition to what we already know in the field. Traditionally, clinicians have tended to write on what they have done and what has worked for them. The reporting has taken the form of self-reflection. There is little coming from students themselves to indicate whether they can understand the real essence of the clinical pedagogy to serve the society. Let us endeavour to write less about ourselves and to simply draw personal conclusions as evidence of the good things clinic work can do for our students and society. Instead, let us focus on the student-teacher partnerships that we ought to create with our students to develop their individual judgement and critical minds in forming their personal own opinions on the work they do in the clinic. There is little written on strategies to sustain already existing clinical programmes. Often, we talk of partnerships and stakeholders yet we write so little about the critical evaluation of the clinic and community connection in the decisions around selecting cases for the clinic. We talk of clinical legal education as having transcended borders but there is little evidence of research carried out in certain conflicted states that we know there is clinical activity. There is therefore a critical need for us to write more on the shape and trajectory of clinical legal education in fragile and/or conflicted states with unstable democracies.

With regards to the strengths and limitations of the included journal articles, the observation the researcher made in most selected papers is that the usually trend in presenting the articles seems to be rather descriptive in emphasising the importance of maximising the benefits of clinical legal education programmes. Across the board, there seem to be a lack of objectivity in emphasising the value of clinical programmes. Subjectivity seems to be the norm in presenting clinical scholarship. We tend to write more about ourselves and the good work we do in the clinic. The literature reviewed is pro-clinic, authors are self-reflective and sometimes too polemic when highlighting and criticising traditional methods of teaching substantive law to students. They describe the lecture/seminar method of teaching substantive law as a hindrance to the establishment and sustainability of clinical programmes.

One process, however, that seem to have been missed in the selected articles is the use of an empirical approach as a methodology in identifying factors that have been influential in the creation and sustainability of law clinics. This area has been surprisingly neglected,

as much of the literature on clinical legal education has focussed on non-empirical methods. The researcher accepts that the case study methodology involving an observational approach is effective too. However, the question of how using other case study research tools, such as interviews, for example, would help towards the identification of key aspects in setting up and running clinical programmes has rarely been considered. Consequently, we have little basis, other than our own experiences of what we have observed as influential factors, from which to develop a deeper understanding of those factors from the perspective of others involved in the creation and sustainability of clinical programmes elsewhere. It is therefore this limitation in literature that partly influenced the decision to adopt a different approach in the researcher's overall research on clinical legal education in Zimbabwe.

Although previous research has demonstrated that there are indeed certain factors that are influential in the establishment and sustainability of clinical programmes within law schools, it devotes scant attention to a replicable graphic symbolic mapping of the identified influential factors as presented in this research. Important relevant factors that ought to be taken into consideration are scattered haphazardly in tens of thousands of journal articles and consequently, making the identification of such factors an impossible feat. This doctoral study, introduces into the field and for the first time, the idea of systematically reviewing clinical scholarship and mapping the findings for researchers to use in creating new knowledge. This research was designed to be the first to use the newly introduced map of influential factors in considering whether they were comparable to the factors that were influential in the establishment and sustainability of clinical legal education in Zimbabwe. Based on the data collected in Zimbabwe and analysed in Chapter 7, the researcher shows that the map constructed from the systematic review findings can be replicated and be a part of a research process. Finally, by focussing on the analysis of the 20 factors identified from literature as a key step towards the generation of theory grounded in data collected from Zimbabwe, the map provides fresh insights into different methodological approaches in research considered in the next chapter, an area of inquiry that has been relatively ignored and not considered in the field.

CHAPTER 5 – CASE STUDY RESEARCH DESIGN

5.1 Introduction

Having used different methodological processes to answer the review question that set out to identify factors that have been influential in the establishment and sustainability of clinical programmes around the world, the next step involved a preparation to undertake fieldwork in Zimbabwe. Finding an answer to the research question following the completion of an in-depth analysis of selected clinical scholarship discussed in the previous chapter required a combination of methodologies that complement one another. This chapter provides a detailed description of the components of the methodology and methods used in the research process and most importantly, how the researcher executed the methodology. A link between the research philosophy orientation; the adoption of a mixed methods research design in Chapter 2; the quantitatively driven systematic review method in Chapter 3 and the qualitatively driven grounded theory method used to analyse textual data in Chapter 4, will be referred to. The chapter will show how mental processes involved in the research cycle influenced the type of research methodology that the researcher considered crucial in achieving the aim and objectives of the doctoral study. The chapter will begin by examining the definition of a case study methodology and the related research instruments used specifically for this doctoral research. It will further be asserted by the researcher that the allegedly limitations of the case study methodology are mere misconceptions that should be treated and dismissed with the contempt they deserve. The combination of the case study methodology with a grounded theory approach provided the most suitable methodological approach to provide answers to the research question. The researcher highlights the criticisms of the methods used and explains how they were counteracted. The chapter concludes by providing a detailed explanation of other available methodological options and explains why they were found not to be the best options for this type of research.

5.2 An overview of the case study methodology

As stated in Chapter 2, the philosophical stance adopted is that of a worldview that underlines and informs a style of research providing a procedural framework with which the research would be undertaken. This doctoral study followed a certain methodological approach that had the potential to answer the following questions: *why certain data was collected from Zimbabwe; what data was collected; where the data was collected; how the data was collected and how the data was analysed* (Collis, et al., 2009). To increase reliability, the researcher formulated a research protocol that comprised of a research proposal detailing the aim and objectives of the research, an overview of the research on clinical legal education including a research interview schedule and most importantly, research consent forms.

This doctoral study is an empirical inquiry (Yin, 2014) that investigated a contemporary clinical legal education phenomenon within its real-life context, since the boundaries between phenomenon and context were not yet evident before the commencement of the research process. During the fieldwork in Zimbabwe, the researcher did not view himself as an observer detached from his research participants. Instead, he provided his research participants, with an opportunity to share with him their concepts and interpretations of clinical legal education with the sole aim of generating and developing a theory around those factors relevant to consider in the establishment and sustainability of clinical programmes. The combination of case study methodology and grounded theory method provided useful tools to learn about the research participants' perceptions on clinical activity in Zimbabwe.

By undertaking a systematic review of literature that was quantitatively driven, the researcher borrowed from a *positivist* paradigm. Following that process, he then analysed the selected clinical scholarship using a qualitatively driven grounded theory method to identify factors that influenced the creation and sustainability of clinical programmes from around the world. By so doing, he also borrowed from an *interpretivist* paradigm. Thus, this nexus produced a hypothesis that needed to be tested. To understand what sort of factors influenced the creation and sustainability of clinical programmes in Zimbabwe, this study needed to test identified factors from clinical scholarship against the findings of the data collected from Zimbabwe. Consequently, what the following sections present is a narrative that describes the choice of a research methodology that was influenced by the researcher's recognition that research methods can effectively be combined, so long as they achieve the aim and objectives of the study.

The research propositions and knowledge claim made in the initial research proposal about the lack of a comprehensive study on clinical legal education in Zimbabwe directed the researcher to focus on what kind of data he needed to collect from the Zimbabwe. These propositions emerged from a survey of the literature and existing theoretical constructs that later formed a fertile ground for the emergence of themes and the generation of a theory on clinical activity in Zimbabwe. The researcher carried out a systematic review of literature that also engaged a grounded theory method to identify the research propositions, research justifications and intended contributions to knowledge. The nexus between the two approaches also assisted in the formulation of the review question, the research question and the interview questions. In the process, the nexus led to the choice of a case study methodology that integrated with the techniques of a grounded theory method to provide a fused framework within which the researcher analysed his fieldwork data. For this research, the targeted research sites included two institutions of higher education in Zimbabwe. The two institutions of higher education have law faculties that the researcher initially got to know, through grey literature, that they run a legal aid clinic as a clinical programme. However, for reasons given in detail in Chapter 6 and highlighted in Chapter 8 as limitations to the doctoral study, the researcher only managed to gain access at only one of those two institutions. Furthermore, the use of a mixed methods research approach presented in Chapter 2 also affected the choice of methodology for the collection of data in Zimbabwe.

Considered for this doctoral study were three types of case studies: exploratory, explanatory and descriptive. The research generally began with questions of '*what*' factors have been influential in the establishment and sustainability of clinical programmes and/or '*who*' would be the research participants in the research and hence the doctoral study adopted the *exploratory* stance (Yin, 2014). The research then adopted an *explanatory* type of case study as it generally aimed at answering the questions of '*how*' the clinic in Zimbabwe could possibly be sustained in the long run and/or '*why*' the clinic was established in the first place (Yin, 2014). Here, the researcher had little control over actual events and focus was on the phenomena in some real-life Zimbabwean context. The research is also a *descriptive* type of case study as it traced the sequence of interpersonal events over time and describes a clinical culture that has seen collaboration between the institution and other interested organisations and sought to discover the terrain concerning the operation of the clinic within that jurisdiction. The desire to conduct a successful research that was not only exploratory in nature but explanatory too necessitated the formulation of a researchable question. To achieve this, the research followed a certain criterion that included the following:

- **Prediction:** (What is the likely result of the research on legal education in Zimbabwe following the identification of factors influencing the establishment and sustainability of programmes in other jurisdictions?)
- **Historical:** (How has legal education and professional skills in Zimbabwe developed and evolved?)
- **Intervention:** (Is clinical legal education methodology viewed as better than the traditional law school curriculum that overwhelmingly utilise either a lecture and/or seminar discussion format to teach substantive law?)
- **Exploration and Explanation:** (What possible explanations does the research attribute to the Zimbabwean context regarding clinical legal education?)
- **Causation:** (What are the likely causes of the dilemmas in creating and sustaining a law clinic in Zimbabwe?)
- **Attitudes:** (How do stakeholders feel about clinical legal education in Zimbabwe?)
- **Characterisations:** (How can we develop an understanding of the factors influencing the establishment and sustainability of clinical programmes in Zimbabwe and make recommendations for reform in legal education if need be?)

As can be seen from these criteria, the researcher sought to test factors identified from the clinical scholarship selected through a systematic review of literature against the findings of the fieldwork in Zimbabwe to put in context the clinical activity in Zimbabwe. The researcher sought to discover how legal education in Zimbabwe has developed and evolved as a practical component of the mainstream legal curriculum. He also sought to explain the rationale for clinical methodology over the traditional law school curriculum that overwhelmingly utilise a lecture and/or seminar discussion format to teach substantive law and explore the possible explanations to the introduction, expansion and sustainability of a clinical programme in Zimbabwe. The researcher aimed at highlighting and examining the likely causes of the dilemmas, constraints and obstacles in developing clinical programmes in Zimbabwe and the attitudes of research participants towards clinical legal education in Zimbabwe as highlighted in Chapters 4 and 7 and discussed in Chapter 8. This research project is therefore both explanatory and exploratory as it attempted to answer the 'who' or 'why' and the 'what' or 'who' type of questions found in both the explanatory and exploratory type of case studies. However, case study methodology has not escaped the notoriety of sceptical methodologists who still think that

the methodology lacks rigour and is therefore not effective enough to be accepted as a standalone research methodology as discussed below.

5.3 Case study methodological misconceptions

Case study methodology has not escaped critics who erroneously view it as an unreliable methodology in research. However, as shall be seen, much of the criticism emanates from mythologizing case study limitations (Flyvbjerg 2006). Considered in the context of the doctoral study, are five common misconceptions construed by some qualitative methodologists:

1. *Theoretical knowledge is more valuable than practical knowledge*
2. *The case study is most useful for generating hypotheses, while other methods are more suitable for hypotheses testing and theory building*
3. *The case study contains bias toward verification*
4. *It is often difficult to summarise specific case studies; and*
5. *One cannot generalise from a single case, therefore the single-case study cannot contribute to scientific development*

The first misunderstanding is that general *theoretical knowledge independent of a context is more valuable than the concrete practical knowledge that is dependent on a context* (Ibid). The researcher views this position as a fallacy. A learning process that could have involved an understanding of clinical legal education through what has only been written in text books about clinical legal education would have been limiting on the overall understanding of the operation of the legal aid clinic in Zimbabwe. Reliance only on theory-laden facts from journal articles detailing historical backgrounds on clinical legal education in other jurisdictions without taking practical steps to enter the field and understand clinical legal education from the local context would have been a limitation in gaining knowledge of the context of the phenomenon in Zimbabwe. In the exercise of our professions as research students and academic practitioners, there is a need to accept that around us there exists “an intimate knowledge of several thousand concrete cases” in our areas of expertise that lies at the centre of the case study approach as a research methodology (Flyvbjerg, 2006: 5). For the researcher to develop knowledge around clinical legal education in Zimbabwe, it was incumbent upon him to move a step further up

from theoretical conceptions gained through an analytical rationality to the level of an expert by taking practical steps to travel to Zimbabwe to carry out his interviews. Otherwise, the fluid performance of his tacit skills in becoming an expert in researching on the Zimbabwean clinic could have been extensively limited. It was only through the experience of using a case study methodology that elevated the researcher from being a novice and theory-laden beginner to an expert in the field of reporting on the findings of the operation of a law clinic in Zimbabwe.

Secondly, there are also suggestions that *a case study methodology is only useful at the beginning of research when we want to generate hypotheses but not useful at the stage where we need to test the generated hypotheses and build theories around the areas we are researching on*. This too is a misconception. The case study is useful for both generating and testing of hypotheses but is not limited to these research activities alone. Undertaking research on clinical legal education in Case A to investigate the terrain and assess the positive and negative aspects of the Zimbabwean clinic aimed at not only generating and testing the hypothesis derived from an analysis of the selected journal articles. Case A was a *critical* case. The research aimed at defining Case A in terms of having strategic importance in relation to the general problem of the non-existence of clinical scholarship on the clinic in Zimbabwe. To contribute to knowledge, this doctoral research aimed at investigating those factors that we ought to consider relevant in the establishment and sustainability of clinical programmes, albeit from a Zimbabwean context.

Thirdly, there have been suggestions by qualitative methodologists that *case study methodology supposedly contains bias towards verification* (Diamond, 1996). Diamond touches upon a fundamental problem that we ought to deal with as researchers at all stages of our research. A drawback of the case study methodology is that the data is often unique to the studied event or process. The researcher took a holistic approach and engaged with a 100% sample of all academic practitioners involved in the operation of the clinical programme. Bias in selection of case studies in Zimbabwe was non-existent. The researcher planned from the onset to collect data from all law schools in Zimbabwe where there was some grey literature evidence of the existence of clinical legal education. Furthermore, it has been said that case study conclusions are highly subjective, general and not predictive. However, in this research, to fully comprehend and understand the factors influencing clinical legal education in Zimbabwe, the socially constructed and subjective interpretations generated the knowledge acquired (Carson et al., 2001; Hudson and Ozanne, 1988). Subjective data became an integral part of the case. It is through an analysis and interpretation of how research participants thought, felt and acted that many

insights and understanding of the case were generated (Simons, 2009). In this doctoral research, the research participants at Case A were the main instruments in the data gathering, interpretation and reporting. The case study was appropriate methodology for exploring the problems of legal education practice (Merriam, 1998) in Zimbabwe. It was therefore appropriate to use case study methodology for this research to investigate the challenges, constraints and obstacles that we, as clinicians, face in our endeavour to plan, introduce, implement and sustain a law clinic. If we were to assume that research, like any other learning processes can be described through the cases we investigate then surely “it then becomes clear that the most advanced form of understanding is achieved when researchers place themselves within the context being studied” (Ibid: 20). This was therefore the only way that the researcher would understand the view points and opinions of the research participants at Case A to assess the positive and negative aspects of clinical legal education in that jurisdiction. It is on this basis that the doctoral case study contained “no greater bias toward verification of the researcher’s preconceived notions than other methods of inquiry” (Ibid: 21).

The fourth misconception is the argument that *it is often difficult to summarise specific case into general propositions and theories* (Benhabib, 1990; Rouse, 1990; Roth, 1989; White, 1990). The goal of the doctoral study was “not to make the case study be all things to all people” (Flyvbjerg, 2006: 23). The goal was to leave the research open to different interpretations and “allow the study to be different to different people” (Ibid). To a certain extent, the researcher concurs with the statement that summarising case studies is often difficult, as he would have found it to be so had he tried summarising the case process. However, the statement is less correct as far as summarising the research findings is concerned. Chapter 7 is a good example of a summary of the research findings following a thorough analysis of the research participants’ voices in the interview transcripts. As Flyvbjerg, (2006: 25) would put it “[t]he problems in summarising case studies, however, are due more often to the properties of the reality studied than to the case study as a research method.” It was not desirable to summarise and generalise the Zimbabwean case study. The doctoral study has therefore been presented in a way that would allow the research to be read as a narrative in its entirety to enable the reader “to develop descriptions and interpretations of the phenomenon [clinical legal education in Zimbabwe] from the perspectives of the [research] participants, researchers, and others” (Flyvbjerg, 2006: 25).

The fifth misunderstanding is that the *generalisation of knowledge is not achievable by use of a single case study*. Criticising single case studies for being inferior to multiple case studies is misguided because even single case studies “are multiple in most research

efforts because ideas and evidence may be linked in many different ways” (Ragin, 1992: 225). For this doctoral research, the single case study approach was inevitably adopted and embraced as events unfolded prior to and during fieldwork in Zimbabwe. The researcher considered, prior to any data collection, whether the research was going to adopt a single case study approach in collecting clinical legal education data from Zimbabwe or whether the researcher would still try to negotiate access with the other initially targeted institution when he was already in Zimbabwe. The research proceeded along the lines of flexibility. However, the lack of response to the researcher’s emails requesting access, phone calls made and texts messages sent to gatekeepers at Case B meant that the research had to adopt a single case study approach. Besides “[t]he single-case study is an appropriate design under several circumstances” (Yin, 2014: 51). In testing the various influential factors in the creation and sustainability of clinical programmes identified from the systematic review of literature against the findings from Zimbabwe, the researcher seized the opportunity to “observe and analyse a phenomenon previously inaccessible to social inquiry” (Yin, 2014: 52). The rationale for a single case study design was therefore from both *critical* and *revelatory* perspectives. Prior to fieldwork in Zimbabwe, the researcher won the trust of the Research Council of Zimbabwe to conduct his research on clinical legal education in Zimbabwe for a foreign-based institution in Europe. During the data collection in Zimbabwe, the researcher gained the trust of the gatekeepers at Case A. Consequently, the researcher established long-term relationships with his research participants, who in the process of interviews, revealed various influential factors that we ought to consider in the creation and sustainability of clinical programmes; influential factors that no other researcher had could investigate up to that period. When the researcher was granted the opportunity to uncover some prevalent phenomenon previously inaccessible to social scientists in Zimbabwe, “such conditions justify the use of a single case study on the grounds of its revelatory nature” (Yin, 2014: 52).

The researcher had access to a situation previously inaccessible to empirical research in Zimbabwe for the clinic in Zimbabwe and thence, the case study methodology using a single case approach was therefore worth conducting because the descriptive information from the rich data collected from research participants in Case A was critical and revelatory. By befriending the research participants and associating them at a social level, the researcher could learn more about the negative and positive aspects of the clinic in Zimbabwe. The interviews carried out revealed insights into how a clinical programme in Zimbabwe operates given the prevailing socio-economic and political climate of the country. It was therefore using a single case approach that showed how investigating the factors relevant in the establishment and sustainability of clinical programmes could be

effective. Critiques hold that “a potential vulnerability of the single-case design is that a case may later turn out not to be the case it was thought to be at the outset” (Ibid: 53). To address such concerns, this research committed to a careful investigation of Case A, “to minimise the chances of misrepresentation and to maximise the access needed to collect the case study evidence” (Ibid: 53). It would therefore be incorrect to conclude that one cannot generalize from a single case (Flyvbjerg, (2006: 8). The effectiveness of a single case study in this doctoral study depended upon the case under investigation and on how the researcher chose the case. Therefore, the strong conviction that only generalisation is possible with multiple case studies – is a fallacy and indeed a conviction one would equate to the erroneous belief that *all swans are white* (Taleb, 2007).

The ability to collect data from Case A marked the emergence of what the researcher would term a *black swan* event in Zimbabwe. Prior to the researcher carrying out research on clinical legal education in Zimbabwe, there had never been any similar research carried out on law clinics in that jurisdiction. The lack of research from a Zimbabwean context and indeed by the growing interconnectedness of law schools through the global clinical movement exacerbated the uncertainty of the operation of the law clinic in Zimbabwe. The term *black swan* is derived from the previously held assumption that ‘all swans were white’ until the discovery of black swans in Australia. When the researcher entered the field in Zimbabwe faced with the inevitability of a single case study approach in data collection, he felt some trepidation in collecting data from a single case. His anxiety arose because he had read so much of the criticism of a case study methodology to an extent of nearly believing the conventional wisdom of case study research. However, his main idea was not to attempt the prediction of a black swan event in Case A before the data collection commenced. Prior to this research researcher would have had his thinking on the clinic in Zimbabwe limited in scope. He would have made assumptions based on what he saw, knew and assumed because of lack of comprehensive research on clinical legal education in Zimbabwe.

Research on the clinical programme at Case A in Zimbabwe, albeit from a small sample, became an event in the global clinical movement. The effects of the research findings on the clinical movement became higher due to the contributory effect the research would make to the global clinical movement just like the rise of the internet, particularly Google. The black swan event has a very central and unique attribute to this doctoral research on clinical legal education in Zimbabwe, i.e. high impact. This high impact is on different stakeholders in Zimbabwe. The Research Council of Zimbabwe; gatekeepers at higher institutions of learning in Zimbabwe; legal practitioners; academics; law students and members of the community in Zimbabwe, now have a resource for reference on clinical

legal education in the form of a thesis produced because of the adoption and effective use of a single case study approach. The consequential research event came from the unexpected. The sort of factors relevant in the establishment and sustainability of clinical legal education in Zimbabwe can now be generalised from the findings of that single case. The contribution to knowledge would not have been possible had the researcher been receptive to the misconceptions of a single case study forced on him by others. The proposition from some qualitative methodologists that we cannot generalise based on a single case study is therefore misplaced. The proposition is an illusion of '*we know*' that single case study does not work. In learning the effects of a case study design, it was important that the researcher understood that it is only natural that the human mind tends to think *it knows*. However, it is not always the case that the mind will always have a solid basis for this delusion of '*I know*' and in the process, avoid making falsified conclusions that *all swans are white*; itself an example of a universal claim that would undoubtedly "delimit human understanding of possible range of being" (Larsson, 2009: 30).

Larsson (2009) suggests several different lines of reasoning beyond a crude commonsense singular meaning to signify the generalisation phenomenon so many methodologists seem to find it difficult to escape the mind set signified by the word. For want of space, the researcher touches on only one of Larsson's five lines of reasoning on generalisation in which the author encourages a culture and a need for an elaborated discourse on generalisation to "make arguments about generalization more precise and rational" (Ibid: 26). The question the researcher asked himself after having read all the criticism about the case study and its alleged inability to offer ways of generalisation was whether there was indeed any need for the doctoral study to take the generalisation route. It became incumbent upon the researcher to ask himself this question particularly when it dawned on him that certain methodologists whose work he reviewed, erroneously make an "assumption that the word generalization has a clear, singular meaning" (Ibid: 25). The mere fact that this chapter and other related chapters describe the effort put in by the researcher in trying to understand the meaning; uniqueness and the more often subjective nature of clinical legal education in Zimbabwe through the voices of the research participants lends an *idiographic* characteristic to this doctoral study. Consequently, the idiographic nature of the research project makes it doubtful if we can possibly dispute the fact that certain kinds of research projects are meaningful without any claims of generalisation. Therefore, the necessity of making generalisations in case study methodology faces disqualification.

The researcher's point of departure from his initial argument above in which he sets out different ways in favour of possible avenues to generalise in case study projects is very

pragmatic and it takes from his philosophical stance detailed in Chapter 2. In the Zimbabwean clinic case, generalisation was not meaningful because the doctoral study “belong to a particular kind of study [the global clinical movement] where underpinning logic is one of unique pieces put together in patterns” (Ibid: 28) like in a jigsaw puzzle. The role of research findings from Zimbabwe was not solely to say something about other contexts but to contribute to the broader global clinical movement by filling a knowledge gap that existed in the movement before the commencement of research on the Zimbabwean clinic. The research findings presented in Chapter 7 and conclusions reached in Chapter 8 can be justified even if the case study methodology cannot generalise. The doctoral study is a contribution to the understanding of the clinical legal education tapestry from a Zimbabwean context and makes generalisation redundant in principle. The research cycle focused on “the descriptive study of individuality” (von Wright, 1971: 5) in the form of the legal aid clinic at Case A and aimed at understanding of clinical activity in Zimbabwe as part of a larger pattern in the form of the global clinical movement. Like pieces in a jigsaw puzzle, the case study research findings had a specific role to play as they added new knowledge to the field of clinical legal education and research methods.

5.4 Adopting an effective case study and grounded theory nexus

As can be seen, case study methodology criticism is merely based on misconceptions and hence misleading. In this section, the researcher discusses an effective methodological approach borne out of an integration of a case study methodology with a grounded theory method to increase the reliability of a case study methodology in understanding a problem in its natural setting. For this doctoral study, grounded theory has been taken to mean a research *method* because it is a technique the researcher used to analyse data. On the other hand, the case study means a research *methodology*. It involved an entire research process from the identification of review and research questions, the selection of a philosophical stance, the adoption of a research strategy, the selection of research instruments; the collection of data; the stating of findings right up to the final analysis of the data. One of the main criticisms of the case study methodology is around this issue of analysing large quantities of data where there is no standard technique in place or analysis tool to use. The integration of a grounded theory method presented in Chapter 4 with the case study methodology was justified as the adoption of the nexus improved the weaker aspects of each of the two methods. The methodology and method were

complimentary (Halaweh 2012) to each other. The evaluation weakness of a research conducted purely on a grounded theory method, mainly concerning the generated theory but neglecting the quality of the entire research process through a case study methodology was minimised by the integration of the two approaches (Ibid). The application of the grounded theory concept of theoretical sampling, discussed in the following section, insulated the case study methodology from the criticism of being boundary specific, its adherence to the scope of the research cases and the unit of analysis.

5.5 Sampling and recruitment of research participants

According Webster (1985), a sample is a finite part of a statistical population whose properties are studied to gain information about the whole. When dealing with people, it can be defined as a set of respondents in the form of people, selected from a larger population of people to elicit from them, information necessary in answering the research question. For this doctoral study, sampling was the act, process, and technique of selecting a suitable sample of clinicians to be interviewed by the researcher as he set out to investigate the factors influential in the establishment and sustainability of clinical programmes. Sampling required the research to make strategic choices about who to interview, where to interview and how the interviews were to be carried out. Sampling for this doctoral study was therefore guided by the general principle of thinking of the person, place and situation that had the largest potential for advancing an understanding of how a clinical programme is created and how it is sustained. Thus, the way the researcher sampled his research participants was tied to his research aim and objectives.

As stated in Chapter 1, previous work on clinical legal education in other jurisdictions suggest that clinical programmes can help law students gain practical lawyering skills essential for legal practice. Literature also suggests that law clinics have the potential to provide a platform upon which indigent members of the community can access free legal advice. This doctoral study therefore aimed to build on the knowledge that several factors are influential in either promoting or impeding the creation and expansion of clinical programmes. The broad aim was broken down into measurable objectives and as such the researcher intended to:

1. interview clinicians from Zimbabwean law schools that operate a clinical programme

2. identify, through research participants' voices what factors were influential in the creation and sustainability of the Zimbabwean law clinic
3. harness their perceptions on why clinical legal education started in the jurisdiction
4. solicit their opinions on how their legal aid clinic can be sustained

The review and research questions were then set out as guidelines to fulfil the broad aim of the doctoral study. The biggest questions the researcher needed to ask himself were around the idea of what he wanted to accomplish and what he wanted to know. The appropriate sampling strategy followed on from that. Thus, sampling in this doctoral study was concerned with information richness on clinical legal education in Zimbabwe. Subsequently, two key considerations guided the sampling methods used for the study, i.e. appropriateness and adequacy of data collected from a case in Zimbabwe. In other words, sampling required the identification of appropriate participants, being those who would best inform the doctoral study through their involvement and participation in the operation of clinical legal education in Zimbabwe. The study also required adequate sampling of information sources i.e. people in the form of clinicians; place from which a clinical programme operated; events involving the actual clinical activity and the types of data confirming or disproving the theoretical constructs from the literature that the researcher reviewed to address the review and research questions and to develop a full description of the area being studied.

The researcher could not access the second research site. There was no need to access the third institution as it is yet to implement a clinical programme. At Case A, out of the 26 members of the academic staff, who include fulltime legal practitioners, only five were involved in the operation of the clinical programme. Inadvertently, sampling used in this study involved a small number of research participants from that single institution. Nevertheless, the amount of data gathered from that single faculty was large, with a combined total of nearly six hours of participant interviews and multiple data sources related to one setting which included interviews, observation-based field notes and written documents.

The researcher proceeded on the premise that it was not necessary to have a fixed minimum number of participants to conduct sound qualitative research due to the nature of the research he was undertaking. However, sufficient depth of information needed to be gathered to fully describe clinical legal education in Zimbabwe. As such the detailed information-gathering with one case in Zimbabwe was both appropriate and adequate to describe that case's clinical programme, create new scholarly knowledge and contribute to the growth of clinical scholarship on factors that ought to be taken into consideration

when planning to create and sustain clinical programmes. The account would have been insufficient if the doctoral study's aim was to understand and describe clinical activity in a jurisdiction that had many clinical programmes in operation and conducted in numerous institutions. The researcher's initial aim was to investigate clinical activity from the two law schools where there was online evidence of clinical activity within the targeted institutions. However, because of challenges with negotiating for entry into the other institution, it meant that it became unavoidable to carry out interviews at the only institution where access was sought and granted. Nevertheless, sampling in this research continued until themes emerging from the data collected were fully developed, in the sense that diverse instances on clinical activity in Zimbabwe were fully explored, and further sampling therefore became redundant. In other words, patterns in factors that research participants thought were influential in establishing and sustaining a clinical programme were recurring during data collection and analysis. As the subsequent interviews progressed no new information emerged and inadvertently, the process reached saturation.

Research that is purely quantitative in nature will usually require statistical calculation of sample size a priori to ensure sufficient power to confirm that the outcome of the research exercise undertaken can indeed be attributed to the intervention. In qualitative research, however, the sample size is not generally predetermined. The number of participants in this doctoral study depended upon the number of clinicians required to inform fully all the important elements of clinical legal education in Zimbabwe. That is, the sample size was sufficient when subsequent and additional interviews did not result in identification of new concepts, an end-point called data saturation (Glaser and Strauss, 1967).

5.5.1 Purposive sampling

It has been noted that research participants in any study are not always created equal (Amegashie-Viglo, 2014). In Amegashie-Viglo's view, one well-placed articulate informant will often advance the research far better than any randomly chosen sample of fifty people, for example. Thus, the way the researcher sampled in this doctoral study took Amegashie-Viglo's view into account. Sampling for this doctoral study was purposive. Sampling was purposeful in the sense that it aimed at selecting appropriate information sources to explore meanings around the various factors influential in the establishment and sustainability of clinical programmes. It was theoretical in its aim as the researcher set to select people, situations and processes on theoretical grounds to explore emerging ideas and build theory as data analysis progressed. Purposive sampling was an ongoing

exercise throughout the course of the doctoral study and was intimately linked with the emergent nature of the research processes described in this chapter. Purposive sampling for this doctoral study involved a process of selecting research participants who had knowledge and/or experience of the area being investigated, i.e. clinical legal education. Purposive sampling entailed the use of researcher's own judgement, his selectiveness and his subjectivity in sampling. Nevertheless, purposive sampling was a non-probability sampling technique in which the researcher had a purpose in mind and relied upon his own judgement when choosing members of population to participate in the doctoral study. According to Patton (1990), there are several different purposeful sampling strategies. To achieve the aim and objectives of the research, the researcher considered and combined the following:

- *expert sampling*

This is a subcategory of purposive sampling in which the researcher assembled a sample of clinicians at Case A with known and demonstrable experience and expertise in clinical pedagogy

- *paradigmatic case sampling*

Here the researcher looked for an exemplar of a certain class of case, i.e. law faculty with a clinical programme. He also looked for appropriate and relevant research participants, in the form of clinicians. The selection of the research participants was in accordance to criteria set by the researcher and based on the various factors he had identified from literature as influential in either promoting or inhibiting the creation and sustainability of clinical programmes (Teddle and Yu 2007). The combination of well-established qualitative and quantitative techniques in creative ways to answer the review and research questions was crucial in deciding the types and size of samples suited for a research that utilised a mixed methods research approach. As highlighted in Chapter 2, one of the justifications for using a mixed method research design was to pursue an in-depth understanding of clinical legal education in Zimbabwe and the subsequent sampling design was crucial in gaining that understanding.

The researcher considered probability sampling techniques. However, these were inappropriate for this type of study because they involve "selecting a relatively large number of units from a population, or from specific subgroups (strata) of a population" (Tashakkori and Teddle, 2003: 713). On the other hand, purposive sampling techniques were appropriate because they primarily involved selecting units such as individuals or groups of individuals, based on specific purposes associated with answering a research question (Teddle and Yu (2007).

- *theory guided sampling*

Here, the researcher followed a deductive or theory-testing approach and hence he was interested in finding individuals or cases that embody theoretical constructs from the literature he reviewed. Theoretical sampling allowed for an in-depth discussion of the data from “particular settings [Case A], persons [research participants], or events [that were] deliberately selected for the important information they can provide that cannot be gotten as well from other sources” (Maxwell, 1997: 87). Early analysis of data obtained from clinical scholarship indicated issues that needed exploration. The on-going theory development on factors influential in the establishment and sustainability of clinical programmes guided sampling. Textual data collection through a systematic review method and analysed through grounded theory, the collection of data from Zimbabwe through case study methodology and the analysis of data using the Straussian version of grounded theory took place in alternating sequences and hence can be described as an iterative cycle of induction and deduction. This process consisted of the collection of textual data through a systematic review and then followed by a constant comparison between the results to guide collection of oral data from Zimbabwe (Strauss and Corbin, 1990; Miles and Huberman, 1994).

The sampling of research participants came from a theoretical sampling of concepts that had theoretical relevance in building and developing theory. To achieve sampling, the researcher conducted an initial survey of clinical scholarship that brought up questions for fieldwork and provided the researcher with a focal point to begin from as he prepared to enter Zimbabwe. This process is like the one in which sampling of new data is based on the analysis of data previously collected through interviews, where emerging concepts would then direct how future data could be collected including how subsequent interviews could be addressed to develop theory. The researcher continued the sampling process until theoretical sampling became saturated. Chapter 7 provides detailed examples of how the open, axial and selective coding processes analysed data collected from Zimbabwe.

- *criterion sampling*

Here, the researcher searched for a case or individuals who would meet a certain criterion, i.e. those members of the faculty that were involved in the running of a clinical programme. Thus, five academic clinicians including practising legal practitioners working at the legal aid clinic at Case A were recruited to take part in the research process per characteristics of the population and the purpose of the doctoral study.

5.5.2 Recruitment of the sample

The researcher identified the population of interest:

- This involved a group of people that the researcher wanted to make assumptions about concerning clinical legal education. Of course, there is no way he could have interviewed the whole faculty of law staff members as some of them would not have been involved with the clinical programme.

The researcher specified a sample frame:

- The researcher only wanted to interview clinicians in Zimbabwe who were involved in the running of clinical legal education so that he could get to know their opinions and perspectives on the operation of the law clinic and the factors that they thought have been influential in the establishment and sustainability of the clinical programme in their institution.

The researcher made initial contact:

- An introductory email was initially sent out to each of the deans of the two law schools requesting access.

As can be seen, boundaries were set for the sample. Research sites and participants ought to have fulfilled certain criteria to be sampled. Research sites must have been in Zimbabwe, within a faculty of law that ought to have had a legal aid clinic. Research participants ought to have been clinicians or academics teaching at or involved with the legal aid clinic in Zimbabwe. Notwithstanding these criteria, the sample size may be criticised by methodologists as being too small. However, as already stated and at the time of this research, there were only two laws schools in Zimbabwe with legal aid clinics. The legal aid clinic at Case A is relatively small with only five members of staff running it. All five were interviewed. There was no response from the other institution to the researcher's request for access. The study depended on having access to people, organisations and for reasons best known to the gatekeepers at the other institution, emails, letters and telephone calls were not responded to and therefore access was not achieved with the said organisation. As such, the researcher still does not know the current situation concerning the legal aid clinic at that institution. Nevertheless, there is secondary evidence from research participants who trained as lawyers at the other institution, that the clinic there was passive, voluntary and run by law students.

The study was not purely a quantitative research where if the sample size is too small, it becomes difficult to find significant relationships from the data as statistical tests normally

require a larger sample size to ensure a representative distribution of the population and to be considered representative of groups of people to whom results will be generalised or transferred. In this doctoral study sample size was less relevant. The case study was ideographic, specific, critical and revelatory. The research findings revealed something hitherto unknown. The small sample was insightful and robust as shown in Chapter 7.

5.5.3 Small sample size

Notwithstanding the challenges referred to above and discussed in detail in Chapter 6, it was the small sample that:

- assisted the researcher to narrow down a very broad field of research into one easily researchable example
- achieved the successful testing of whether the various factors gleaned from clinical scholarship applied to clinical legal education in the real world
- it was also a small sample that became a useful design as not much was known about the clinic in Zimbabwe
- excelled at bringing us to an understanding of a complex issue through detailed contextual analysis of the clinic in Zimbabwe
- added the strength to what was already known through previous research on clinic in other jurisdictions
- assisted the researcher to make wide use of the research design to examine a contemporary real-life situation with regards to clinical legal education in Zimbabwe and provided the basis for the application of concepts and theoretical constructs gleaned from literature and the extension of methodologies such as the combination of systematic review; case study methodology and grounded theory approach
- provided detailed description of specific and rare case that has never been reported on before
- provided the descriptive information that was specific, critical and revelatory

Critics of small sample approach may argue that small size particularly from a single case study is such a narrow field that its results cannot be extrapolated to fit an entire question and that they show only one narrow example. On the other hand, others may argue that a small sample provides more realistic responses than a purely statistical survey. The researcher's response to such arguments would be that the truth probably lies between the two and it was probably best to try and synergise the two sample size approaches. It is valid to conduct case studies with a small sample but they should be tied with more general statistical process. For example, a quantitatively driven systematic review revealed that funding was the most talked about factor in the literature reviewed but it was the case study of a very narrow group that determined why this was so, albeit from the Zimbabwean context. The main thing the researcher experienced during this doctoral study involving a small sample within a single case study was the approach's flexibility. Whilst a pure scientist will try to prove or disprove a hypothesis using a large sample, a single case study with a small sample might go further and introduce new and unexpected results during its course and lead to research taking new directions as revealed by the analysis in Chapter 7 and discussed in Chapter 8. Besides, when informing others of research results, case studies may make more interesting topics than purely statistical surveys. The public may have little interest in pages of statistical calculations whereas well-placed case studies may have an impact.

5.5.4 The requirement to generalise

As stated earlier in this chapter single case study approach particularly with small sample as in this doctoral research may be criticised for offering little basis for establishing the ability to generalise the findings to a wider population of people. The question the researcher asked himself after having read all the criticism about small samples, the case study and its alleged inability to offer ways of generalisation was whether there was indeed any need for the doctoral study to fulfil that requirement. The mere fact that this doctoral study describes the effort the researcher put in trying to understand the meaning and uniqueness of clinical legal education in Zimbabwe through the voices of the five research participants lends an idiographic characteristic to this doctoral study. Consequently, the specific, critical, revelatory and idiographic nature of this research project makes it doubtful if it is possible to dispute the fact that certain kinds of research projects are meaningful without any claims of generalisation. The necessity of making generalisations in case study methodology using a small sample therefore faces disqualification.

Besides, there are no specific rules that determine an appropriate sample size in research. The small sample in this doctoral study was best determined by the time allotted, the availability of financial resources and the study objectives (Patton, 1990). Different methodologists suggest and make recommendations on sample size. Creswell (1998) recommends five to six interviews. Morse (1991) has suggested at least six. Glaser and Strauss (1967) have recommended the concept of saturation for achieving an appropriate sample size. As stated above, saturation occurred in this doctoral study when subsequent interviews with research participants did not result in any additional information, insights and perceptions on the operation of clinical legal education in Zimbabwe. Obtaining most or almost all perceptions on how the clinical programme in Zimbabwe started and how it is being made to last led to the attainment of saturation. As such there were no specific generalisability rules that this doctoral study should have followed. Because of the challenges faced by the researcher in accessing one of the initially targeted institutions, it became unavoidable not to take a nomothetic approach that would have entailed a sustained focus on a study of classes of cases in Zimbabwe; in which the outcome would have been a macro exemplar of a population requiring the fulfilment of generalisation.

5.6 Data collection tools

In this section, the researcher discusses three methods commonly used in case studies, interviewing, observation and document analysis. For this doctoral study, the researcher used all the three methods but had a strong preference for interviewing. Compared with other methods, in-depth interviews enabled the researcher to get to the core issues influencing clinical programmes in Zimbabwe more quickly and in greater depth, to probe motivations, to ask follow-up questions and to facilitate individuals telling their stories. This research involved visiting a research site in Zimbabwe. Individual participants were encouraged to speak openly about their perspectives on clinical legal education in Zimbabwe. This section therefore outlines the methods used to achieve the aim and objectives of the research. It expands on the methodology used for the primary research. It will review the methods used for data collection, interviews, observation and examination of publicly available documents and justify the choice of these instruments.

5.6.1 Interviews

The type of interview utilised in this research is what Weis, (1994: 207-208) would describe as an 'intensive interview', 'in-depth interview', or 'unstructured interview'. This simply means that when the researcher carried out his interviews he followed his own line of inquiry (Yin, 2014), as he would have indicated in his case study protocol. Secondly, he asked his research participants' conversational questions in an unbiased manner that also served the needs of line of research inquiry (Ibid). To fulfil this requirement for this doctoral study, the researcher's interview schedule operated from two levels at the same time. The researcher made sure that even though he had to ask questions that satisfied his line of inquiry on legal education and professional skills in Zimbabwe, he simultaneously asked questions in a piggybacking manner. Where research participants' responses to certain questions raised points that could be further explored, the researcher would go back to the original question and ask further questions to elucidate the expansion of the new issues raised. This approach was utilised in such a friendly and none threatening process that allowed the researcher to ask questions; make follow up to participants' responses with an added flexibility of varying the order of the questions and changing the wordings of questions where necessary. In this way, the hour-long semi-structured interviews tended to be flexible, open-ended and responded to the direction to which the research participants' response sometimes headed.

Using audio-recording devices for the interviews was a personal preference for the researcher in seeking rich data that illuminated the clinicians' experiences and attitudes towards a clinical pedagogy. The researcher could have just used his own notes but the fact that "audio tapes certainly provide a more accurate rendition of any interview than taking your own notes" (Yin, 2014: 110) was particularly appealing and irresistible. To continue observing and maintaining ethics in research, the researcher made sure that the recording devices were only used where the research participant had agreed to his/her responses being audio taped without feeling uncomfortable in the its presence. Secondly, the option to audio tape the interview was appropriate because the researcher had adopted the use of grounded theory method as a tool for analysing data. This approach would inevitably require a specific process of listening and transcribing the records of the electronic record to allow the use of *open*, *axial* and *selective* coding techniques in the analysis of data. However, the researcher was aware that the use of recording devices during the interviews has its own drawbacks particularly if a "researcher is clumsy enough with mechanical devices that the recording procedure creates distractions during the interview" (Ibid).

In order that interviews from research participants in Zimbabwe were effective in eliciting rich data, it was important that the researcher recognised and appreciated that the recording devices he was using during the interviews were not substitutes for listening to the responses of the participants. The advantage of using an unstructured interview as a research tool was that it allowed the researcher to view his research participants in a holistic manner (Gray, 1994). Since the unstructured interviews were less remote and arbitrary form of interviewing, they allowed research participants to tell a story (Guba and Lincoln, 1981). It was when listening to these stories that the researcher saw how important it was, to let his research participants tell their stories through a grounded theory method (Glaser and Strauss, 1967).

Evidence from the systematic review process undertaken for this review and discussed in Chapter 3 has revealed that there has never been any comprehensive research on clinical legal education in Zimbabwe. It became inevitable therefore that using the grounded theory method when little about a subject or problem area is known (Morse 1994) would be crucial. Flexibility within the interview situation would therefore be advantageous when exploring new grounds of research. Indeed, Fielding (1994) points out that an unstructured interview is consistent with a grounded theory approach as it is a valuable method of discovery. For the researcher to understand the factors that have been relevant in the establishment and sustainability of clinical programmes in Zimbabwe, he adopted a grounded theory approach for developing theory grounded in data that was systematically gathered and analysed (Strauss and Corbin, 1994). The only way to achieve theory generation would be by carrying out interviews that would have allowed the researcher to learn about the clinic in Zimbabwe through speaking with informants or members of the law clinic involved in the operation a law clinic.

The semi-structured interview approach also provided a more relaxed atmosphere for the researcher and his participants as he collected data from people who felt more comfortable having a conversation with him as opposed to filling out a survey or questionnaire with structured interview questions. In following a semi- structured approach to interviewing research participants at Case A, the researcher asked specific questions to gain rich data on the operation of clinical programmes in Zimbabwe. The opening stages of the interview were particularly important in this research as they brought together the interviewer and interviewee in the all-important process of data collection. An interview is a two-way traffic type of conversation between a data collector and a data source aimed at obtaining research material that contributes to knowledge. The researcher thanked interviewees for agreeing to the meeting. He told them about the purpose of the research, its funding and progress to date. The researcher gave each interviewee an assurance

regarding confidentiality but did not guarantee it for reasons stated in Chapter 6. He reminded the interviewees of their right not to answer questions. He informed each research participant that they could terminate the interview at any given time. He explained the intended use of the data collected during and after the research and made an offer of any written documentation to the interviewee. In this manner, the use of more focused interview questions allowed consistency with the grounded theory approach and offered flexibility in pursuing issues that were particularly significant in answering the research question (Rose, 1994).

However, there are limitations to the use of an interview as a research instrument. Costing is one disadvantage of undertaking interviews as it usually involves travelling from one point to another. The interviews for this research involved travelling from the United Kingdom to Zimbabwe and that required funding for airfares, accommodation and subsistence during the researcher's stay in Zimbabwe. The researcher budgeted for this well in advance for this fieldwork trip and was a recipient of a travel fund from the University of Northumbria. Flick (2006) has lamented the lack of anonymity that other research instruments, such as questionnaires, provide as a weakness of interviews. However, the researcher emphasised confidentiality of the participants' responses before, during and after each interview session. As researchers, we may also have to deal with irritations caused by confrontational questioning of the research participants (Ibid). The researcher made sure that he did not ask confrontational questions at all. There have been suggestions that sometimes research participants may have an eagerness to please interviewers (Munoz and Luckmann, 2005) during interviews. If certain practical steps are not taken into consideration by the researcher during the course of interviews, the eagerness to please interviewers by research participants has the potential to lead to bias. To address and mitigate against bias during interviews, the researcher encouraged, amongst each of his research participants, genuineness, openness and critical thinking in their responses to questions on clinical legal education and the factors they thought were influential in the creation and sustainability of their clinical programme at Case A.

When the researcher carried out this doctoral research, he wanted to know what the clinicians at Case A thought about the factors influential in the establishment and sustainability of clinical programmes. He wanted to get to the truth of their thoughts and feelings, so that he could learn something about the way they perceived their clinical programme. In an ideal world, all research participants would provide honest and clear answers about their innermost thoughts but the researcher knew that this was not always the case. Research participants will sometimes second guess what the researcher is after, or change their answers or behaviours in different ways, depending on the research and

the environment in which the research is conducted. Courtesy bias, social desirability bias, acquiescence bias, the 'halo' effect bias and response bias can have a huge impact on research findings if certain practical steps are not taken to mitigate the biases.

In interview situations, it is quite possible that one will come across the problem of *courtesy bias*, i.e. the tendency for respondents to give answers that they think the interviewer wants to hear, rather than what they feel (Leon, et al., (2007). The respondents may not wish to be impolite or to offend the interviewer, and may therefore endeavour to give 'polite' answers. Courtesy bias can be an obstacle to obtaining useful and reliable data and therefore needs to be minimised. Generally, however, the creation of a good interview environment and an appropriate relationship between the researcher and the research participants helped to avoid too much courtesy bias arising in this doctoral study.

The researcher knew from the beginning of the doctoral study that he needed to be vigilant and be aware when his research participants react purely to what they thought the researcher desired and answered questions in a way that they thought would lead to being accepted and liked by the researcher. Otherwise any latter attempts to correct the bias would have been ultimately hampered further if the researcher had been oblivious to the possibility of such bias occurring. One of the more prevalent factors that could have shaped research participant responses is that of *social desirability bias* (Ross and Mirowsky, 1984). Research participants often want to present the best versions of themselves, or at least a version that is socially acceptable. It can therefore be difficult for participants to be truly open when it comes to sensitive topics. Considering a question that related to a sensitive influential factor in clinical programme establishment and sustainability shaped, for example, by the political and/or economic fabric of the jurisdiction in which the interviews took place, a very real pressure may have existed for research participants to conform to what they would perceive to be socially desirable to the Zimbabwean government of the time. They could have distorted their answers to what they believed was best, rather than give an honest answer for fear of retribution from those in the corridors of power. The researcher was aware that the Zimbabwean state can sometimes be repressive and ruthless to elements that are considered enemies of the government. Thus, interviewees could have felt that they were being watched by the government's security agents. The researcher took several practical steps to mitigate the effects of social desirability bias.

The researcher ensured that the participants knew that their data was confidential and hoped that the research participants would be more likely to reveal the truth, even if they may not have believed it was of great social desirability. Taking this a step further,

complete anonymity was given to the research participants as no names would be used in the research. Only codes would be attributed to them. By so doing, the researcher provided the individual research participants with a sense of safety that was conducive to revealing particularly sensitive information around those factors that they thought were influential and hence relevant to the creation and sustainability of clinical programmes. In this way, the research participants projected their own feelings about clinical activity in Zimbabwe onto the researcher and still provided honest answers. Furthermore, it was important that the researcher assured the research participants that the information they gave during the interviews would be presented in a judgement-free manner. This would be in regards to the way in which the information would be treated after the data collection and the completion of the thesis. The researcher assured the research participants that he would treat any sensitive information with respect when publishing his work. The researcher hoped that this would give more confidence to the research participants before the commencement of the interviews.

The researcher was also aware of *acquiescence bias* in respondents where research participants would normally agree with questions regardless of question content and show an increased proclivity to respond with 'yes' to 'yes' or 'no' questions, or to simply respond with all 'yes' or 'no' answers throughout the interview (Marin and Marin, 1989). There are several reasons why this effect can emerge, from the participant aiming to please the interviewer through acquiescence, and/or because of research participant fatigue. There are fortunately several ways in which this bias was prevented by the researcher. One of the simplest methods to mitigate this bias was for the researcher to ensure that the interview questions were balanced in their phrasing. The researcher ensured that there were no leading questions in the interviews. He also ensured that the questions were not phrased in such a way as to make the research participant think that they had a social responsibility to answer in a certain way. This approach was much more likely to yield truthful answers and responses from the research participants. Additionally, the number of questions were not more than needed. Otherwise too many interview questions would have increased the chance of inducing research participant fatigue, leading to answers that were given without considered thought on what was being investigated by the researcher. To minimise acquiescence bias, the researcher avoided questions that implied that there was a right answer and instead formulated questions that focussed on the research participant's true point of view on clinical activity in Zimbabwe.

The researcher was also aware of the '*halo*' *effect bias* in interviews (Thorndike, 1920). It is only natural that when we like something we often overlook the misgivings or faults and we tend to see the best in that phenomenon. This applies not only to people, but to our perceived experiences with many things in life such as the operation of a clinical

programme. It was crucial therefore that the researcher was aware that when trying to identify the influential factors in the creation and sustainability of clinical programmes, measuring the research participants' thoughts about clinical legal education, he could certainly anticipate that if the research participants had a positive opinion about clinical legal education, they would also have a positive opinion about the things that are associated with a clinical pedagogy. This type of bias also works in the opposite direction, i.e. the reverse 'halo effect' which means that an individual research participant can react badly to something if it's already associated with a negatively perceived notion as presented by the interviewer. These biases are examples of cognitive carryover effects, and they could have had a huge negative effect on how the research findings were perceived had the researcher not taken certain steps to mitigate the bias. Sometimes, this type of bias may be difficult to control. Research participants can, of course have a range of preconceived opinions about almost everything they encounter in life as clinicians. One of the ways to help deal with this type of bias in this doctoral study was to avoid shaping the research participants' ideas or experiences before they were interviewed. Even stating seemingly innocuous details before fieldwork might have primed the individual research participants to form theories or thoughts that could bias their answers when the researcher finally entered the field to carry out the interviews. It was therefore important for the researcher to provide the research participants with only the information that was needed for the task at hand during the time when he was applying for institutional affiliation with the institution in preparation for field work to avoid extraneous detail. Furthermore, having to interview everyone involved with the clinical programme at Case A was particularly useful to mitigate the sort of bias. Interviewing the whole sample of five clinicians increased the likelihood of obtaining data from a mixed population that reflected the population of clinicians at large at Case A. It therefore follows that if this was balanced for negative and positive opinions then the researcher could still draw conclusions from this group.

Keeping interview questions short and clear was half the battle of avoiding *response bias* and was mitigated by framing the right questions to allow research participants to answer questions correctly (Mazor, et al., 2002). Respondents are less likely to answer questions correctly if a question is too long or if they do not understand the question. For this doctoral study, the researcher avoided leading questions. One of the common errors the researcher could have made had he been oblivious to it while framing interview questions would be to ask leading or hypothetical questions. It was better to avoid these completely forthright questions. Instead of asking leading questions such as "*Are you satisfied with the fact that clinical legal education is more beneficial to students than a lecture seminar method?*" the researcher instead asked research participants to tell him, in their own

terms, their view on how best to educate future competent and responsible lawyers. The researcher avoided difficult concepts when framing questions but where a question appeared complex to a client during the interview exercise, the researcher would break it down into multiple connected questions to offer better clarity to the respondents. Response bias was mitigated by ensuring that the respondents answered questions correctly. Rapport was developed sufficiently to ensure that the research participants became willing agents in responding to and in giving sufficient attention and consideration to the questions asked. The researcher ensured that the research participants fully understood the questions being asked and were responding in the appropriate context. During the interviews, the researcher guarded himself against giving reactions to responses. When research participants gave answers, the researcher was careful not to give a 'surprise' or 'disbelief' reaction which in turn could have easily biased the respondent's subsequent answers. Instead, throughout the interview exercise, the researcher responded with a uniform polite interest only. By knowing what to look for and how to manage it, bias in this doctoral study was minimised. By asking quality questions at the right time and remaining aware, vigilant and focused on the possible sources of biases, the researcher enabled the research participants to give honest responses to ensure validity of the research outcome.

5.6.2 Documentary analysis

Documentary analysis is a form of qualitative research in which the researcher examines documents, interprets them and give them a voice and meaning around the phenomenon under investigation in (Yin, 2014). Viewed as a research tool, the use of documentary evidence refers to the analysis of documents that contained vital information about the phenomenon the researcher is studying (Bailey, 1994). Yin (2014) suggests that documentary information is likely to be relevant to every case study topic and it is for this reason that the researcher took the decision to use documentary evidence as a research instrument in combination to the interviews and the observations he made. Initially, the researcher had planned to obtain documentary evidence as a back-up plan to enlighten the researcher on some grey areas that could have turned out as a miss by the research participants during the interviews. However, an annual report from one of the clinic funders mostly confirmed what the research participants alluded to in their interviews. Other than dedicating a page for news that the Law Society of Zimbabwe had introduced compulsory pupillage training for newly qualified lawyers in Zimbabwe, the rest of the contents of the Zim Juris Issue 1 of February 2014 proved irrelevant to the aim and

objectives of the doctoral study. The Law Society of Zimbabwe annual reports of 2013 and 2014 did shed some light on the regulation of the legal profession in Zimbabwe particularly around the role of the Society in the training of law students. There seem to be a dedication by the Law Society to monitor the standards of legal education at all law schools in Zimbabwe. However, there has been no single mention of clinical activity in Zimbabwe neither on page 4 of the Law Society of Zimbabwe 2013, annual report nor on page 9 of the Society's 2014 annual report where there is just a single paragraph highlighting the role of the Society in the development and maintenance of standards in law schools. These documents did not play any meaningful role for the discovery of useful insights about the socio-economic, cultural and political fabric of the Zimbabwean society and its impact on the expansion of clinical legal education in the jurisdiction that the research participants might have missed during the interview sessions.

This type of documentary evidence had its own disadvantages, particularly taking into consideration that it is not always normal to have research in mind when designing a document. Some qualitative methodologists are critical of the potential overreliance on documentary evidence in case study research probably because "the casual researcher may mistakenly assume that all kinds of documents including proposals for projects or programs contain the unmitigated truth" (Yin, 2014: 108). In reviewing the documents obtained from Case A and from research participants, the researcher had to bear in mind that the documents were for some specific purpose and some specific audience *other than* his own research on clinical legal education. In this way, the researcher became "a vicarious observer, because the documentary evidence reflects a communication among other parties attempting to achieve some other objectives" (Ibid). To avoid the possibility of being misled and to remain critical in interpreting the contents of documentary evidence, the researcher maintained vigilance when examining documents obtained from Case A and found that documentary evidence, as a research instrument was not as effective as he had first envisaged.

5.6.3 Observation of the research environment

In his description of direct observations, Yin (2014) posits that:

"Because a case study should take place in the real-world setting of the case, you are creating the opportunity for direct observations ... Such observations serve as yet another source of evidence in doing case study research" (Ibid: 113).

Yin's quote above encapsulates the essence of looking around and having a sense of the surroundings of research sites for a research project. The researcher had the privilege of encountering the Case A's naturalistic settings upon entry into the research field. He had a first-hand account of the phenomenon he was investigating by mere looking and studying his surroundings. Combining observation of the case settings with other research tools such as interviews and documentary examination provided the researcher with a holistic interpretation of the Zimbabwean clinic. Observation, as a research tool enabled him to describe existing situations using his five senses to provide what he would call a 'written photograph' of the situation he was investigating (Erlandson et al., 1993).

Upon entry into Case A, the range of observations ranged from formal to casual data collection activities. The direct observation took the form of the actual appearance of the site the institution is situated in relation to its surroundings. The place where the law faculty stood within the institution also provided the researcher with an opportunity to observe the physical environment upon which the faculty related to other faculties. Being observant of the physical surroundings accorded an opportunity to the researcher to think about how the physical environment would normally influence the behaviour of the research participants: *would the layout of the faculty in relation to other site buildings promote or prevent confidentiality of the research participants. Would we be under the watchful eye of Big Brother? If so, who would that be?* As these questions raced through the researcher's mind, he quickly reminded himself of the fact that the condition of such immediate environment indicated something about the culture of the institution. The opportunity to interview academics within the institutions' corridors and the privilege to meet with different legal practitioners involved with the law clinic at different locations within the city, in their different offices with different furnishings indicated the status of each of the research participants.

The observational evidence gathered in Zimbabwe was useful in the sense that it provided additional information about clinical legal education from a Zimbabwean context. The observation of where the law clinic is located within the law faculty was an invaluable aid for understanding the actual factors that influential in the establishment and sustainability of clinical programmes. Observations of the size of the law clinic building added new dimensions for understanding both the context and the phenomenon being investigated (Yin, 2014). Thus, case studies should not be limited to a single source of evidence. Yin suggests that most of the case studies rely on a variety of sources of evidence. The case study for this research included an observational protocol that surveyed the research field surroundings but also relied on an unstructured/semi-structured interview protocol with

research participants and a review of documentary evidence that, however, turned out to be less useful.

Interviews and observation as research tools led to qualitative research information that assisted the researcher in understanding the factors relevant in the establishment and sustainability of clinical programmes within law schools, albeit from a Zimbabwean context. The researcher analysed all sources of evidence from audio taped interviews, documentary evidence and observations he made. The case study's research findings came from a convergence of rich data from different sources such as interviews and observations. The researcher would have benefited from the use of multiple observers; itself a common procedure to increase the reliability of observational evidence where more than a single observer sees of the same surroundings. Unfortunately, because of the nature of the doctoral study and the limitation in resource allocation, the luxury of using multiple observations could not be made possible this time. Nevertheless, the lack of resources and an opportunity for multi-observation did not diminish the contribution the case study methodology made in the collection of data when use was made of the data collection devices in the form of interviews, the examination of documentary evidence and observation of the research site. Consequently, the use of a case study methodology in combination with grounded theory turned out to be not only effective but appropriate too. The researcher found the other methodological approaches inadequate after a careful consideration of their characteristics as highlighted in the next section.

5.7 In pursuit of a methodological appropriateness

Even though it is not always so obvious to bring out the appropriateness of a methodology, there is however a general agreement that the most appropriate and right methodology is the one that will answer the research question (Holloway and Todres, 2003). A clear understanding of different research paradigms was therefore essential (Lincoln and Guba, 2000) in making the various methodological choices in this doctoral study. What also influenced the choice of the methodological approach was the researcher's initial exploration of the fundamental assumptions and beliefs of the qualitative and quantitative paradigms.

5.7.1 Why not action research as a methodological design?

Amongst other research designs such as case study, mixed methods, exploratory designs, philosophical designs, observational designs, descriptive designs and meta-analysis designs, the researcher did consider the application of a different design such as action research. However, he decided that action research was not appropriate for this type of research. This research was not concerned with investigating the quality of legal education in Zimbabwe and taking the responsibility to *advocate* for change but rather it was concerned with the research participants' own perceptions and understanding of the factors that they thought and believed were influential in the establishment and sustainability of a law clinic. The researcher's personal over-involvement, which is an attribute of action research, would have biased the research output. The cyclic nature of action research to achieve its twin outcomes of action, i.e. change and research, i.e. understanding, would have been time consuming and complex to conduct.

5.7.2 Why not a phenomenological approach?

The primary intention in adopting phenomenology, as a research technique, is to describe phenomena and how phenomena are interpreted (Cohen, et al., 2000). Phenomenology would have been most useful in this doctoral study if the "task at hand [was] to understand an experience as it is understood by those who are having it" (Cohen, et al., 2000: 3) without the requirement to observe research sites and examine documentary evidence. Examples would include undertaking an interview with law students who would have a clinic component as part of their curriculum and the indigent communities provided with an opportunity to access justice through the work done at a law clinic. Phenomenology would have been appropriate in allowing students and/or clients as research participants to draw from their own lives, allowing them to describe their experiences in learning and delivering a service and receiving the service respectively. Yet data of this kind, which is normally limited to interviews as a data source, has the potential to be anecdotal (Silverman, 1989) with the possibility of the researcher consciously homing in on data interview transcripts that fit existing understandings of clinical legal education or indeed those in-vivo codes that would have appeared to the researcher as exotic and quotable (Fielding and Fielding, 1986). This doctoral study aimed at moving beyond a mere phenomenological character that describes lived experiences but to understand the factors that influenced the

establishment and sustainability of the Zimbabwean law clinic from the perspective of a clinician using different data sources including literature and a research journal.

5.7.3 Why not adopt ethnography?

Ethnography would have been useful if the doctoral study primarily aimed at providing a description of cultural phenomena “in conjunction with fundamental cultural prescriptions” (Sarantakos, 1993: 268). This doctoral study did not aim to focus on just one aspect of research, i.e. specific culture. Instead, the study aimed at explaining the factors that have been influential in the establishment and sustainability of clinical legal education in Zimbabwe by interweaving them with the context of the research participants. The researcher aimed at understanding the Zimbabwean clinic as told by research participants regardless of their cultural background. The researcher set out to unpack a clinical legal education phenomenon rather than focusing on social groups. Even though most ethnographers believe that their main contribution to knowledge is the development of “descriptive theory” (Omery, 1988: 29) reflecting cultural knowledge, behaviours or meanings, this doctoral study did not aim to provide a scientific description of peoples and cultures with their customs, habits and mutual differences. The adoption of ethnography as a research methodology would have resulted in research findings that reflected a descriptive approach such as, for example, narratives to describe research participants. The use of an ethnography as a research tool would have resulted in a final presentation of knowledge and the system of meanings in the lives of a cultural group rather than the development of a theory that aided an understanding of what have been the influential factors in the establishment and sustainability of clinical legal education in Zimbabwe. It has been claimed that ethnography is capable of theory development in research. However, it has also been sufficiently debated as to its capability to generate theory (Omery, 1988; Atkinson and Hammersley, 1994) and thus warranting caution to such an assertion. The researcher found no reason to use ethnography as a methodology primarily to explore people and cultures with the hope of generating a theory in the process when the development of a theory is the reason for the existence of grounded theory.

5.7.4 Why not content/thematic/narrative or discourse analysis?

Although both grounded theory and *content analysis* follow coding processes, content analysis does not focus on finding relationships among categories or theory building. Instead, it focuses on extracting categories from data. Whereas grounded theory method has its own distinctive set of procedures as shown in Chapters 4 and 7, including theoretical sampling and open coding, the procedures in content analysis are not specified at the same level of detail. Whereas there is flexibility within the grounded theory method in building theory, the inflexible guidelines usually attached to content analytical coding is not the most efficient way to do. Grounded theory requires the implementation of the full range of grounded theory procedures, including theoretical sampling, with the aim of producing a theory grounded in data. Although *thematic analysis* can produce conceptually-informed interpretations of data, it does not attempt to develop a theory. While both narrative and grounded theory come up with themes, what differentiates them is that *narrative analysis* does not "fracture" data. Whereas in grounded theory the generation of theory grounded in the data is emphasised, in *discourse analysis* attention is purely given to the constructive role of language, and with multiple and shifting meanings around social objects.

5.7.5 Why adopt an integrated case study and grounded theory nexus?

Grounded theory facilitated the move from a description of what was happening to an understanding of the process by which it was happening (Corbin and Strauss, 2008; Strauss and Corbin, 1998a) concerning clinical legal education in different parts of the world and indeed in Zimbabwe. Most importantly, the combination of a case study methodology with grounded theory permitted the development of a substantive theory, which increased understanding of why the law clinic in Zimbabwe started and how it can be made to last. Prior to the commencement of the doctoral study, the boundaries of clinical legal education and the context in which the Zimbabwean clinic is operating were not clear (Yin, 2014). Despite the research challenges described in the next chapter, grounded theory was useful in investigation and explaining how certain factors account for the operation and existence of clinical legal education in Zimbabwe to which any clinical programme in that jurisdiction must adapt. The case study methodology was less restrictive than other methods highlighted above, as there was a degree of openness and freedom of movement in the beginning. The methodology provided a qualitative leap in the learning process. Concrete, context-dependent knowledge about clinical legal

education in Zimbabwe was, therefore, more valuable than the vain search for predictive theories and universals.

This doctoral study adopted a mixed methods single case study of a clinical programme in Zimbabwe. Quantitative and qualitative data was analysed and interpreted at sequential levels to highlight meaningful similarities, differences and site-specific experiences concerning clinical legal education as has been indicated in Chapter 2. The mixed methods single case study design was effective in developing a more nuanced, theoretically informed understanding of clinical legal education in Zimbabwe. It relied upon the sequential collection and analysis of quantitative and qualitative data, which began with quantitative data obtained from a systematic review for exploration and hypothesis generation (QUAN->qual) and subsequently led to the formulation of interview questions and the analysis of qualitative data from Zimbabwe (QUAL->quan). This served the primary function of *development* as collecting quantitative data in Chapter 3 afforded the opportunity to examine the factors identified from selected scholarship and analysed in Chapter 4. The mixed methods research design also served the secondary function of *convergence* by using quantitative and qualitative data to answer the research question. The case study methodology therefore provided context-dependant, i.e. practical knowledge as opposed to context-independent, i.e. theoretical knowledge that a social science such as clinical legal education may have difficulty with despite the research challenges that are described in the following chapter.

CHAPTER 6 – CASE STUDY CONTEXT AND RESEARCH EXPERIENCE

6.1 Introduction

In the previous chapter, the researcher explained how he went about conducting his research. He presented the overall strategy he adopted for the research and stated the reasons for doing so. The researcher highlighted the methodological design and techniques he used to collect data in Zimbabwe. He then justified his choices over other methods and argued that the collection of data using the case study methodology was the most suitable approach to provide an answer to the question why the law clinic in Zimbabwe was created and how it is sustained. The successful collection of data from the jurisdiction depended upon the researcher's ability to put in place methods to mitigate the negative impact the researcher's prior conceptualisation of the field might have had on the research following his review of literature. The key was to bracket (Creswell, 1998) any assumptions that might have been derived from a systematic review. Whilst the second part of this chapter attempts to detail the challenges the researcher faced in obtaining access to research sites, in the first section, the researcher mitigates views the reader might have of the researcher having never got to know what subconscious factors influenced his preparation for fieldwork. The researcher therefore momentarily takes a step outside the research process, makes an introspective observation of himself in dealing with the possibility of his prior conceptualisation of clinical legal education being viewed as preconceived ideas that might lead to bias in the collection and analysis of data.

6.2 Assumptions: prior conceptions or preconceived ideas?

Clinical scholarship reviewed indicated that it was mostly written by either a legal practitioner in practice and working within the clinic or academics who also had previous experience of working as lawyers. It was therefore inevitably that the researcher's sample would have to include only research participants who were directly involved with the

operation of law clinic in Zimbabwe. The researcher felt that this class of research participants were most suited to provide valuable insights into the establishment and sustainability of clinical legal education from the Zimbabwean perspective.

Alongside ideas from literature, the researcher already had teaching and legal practice experience and hence it was inevitable that he would come into the field with considerable knowledge of legal education and professional skills. For the researcher to have thought conceptually in his collection and analysis of data from Zimbabwe, there would always have been that need to follow literature and to know more about clinical legal education from across the globe. It was therefore not easy for the researcher to put aside his knowledge gained from the findings of the literature review he undertook before fieldwork and indeed during the analysis of data as presented in Chapter 7. Nevertheless, he was conscious not to be directed by any earlier concepts in the collection and analysis of the data from clinical scholarship and within the interview scripts. Firstly, to mitigate the potentially pernicious effect of carrying into the research process preconceived ideas that usually result in a tainted research output, the researcher ensured that his understanding of clinical legal education in Zimbabwe must come from the true perspective of his research participants. From an early stage, the researcher developed an awareness that his prior knowledge gained from experience of legal practice and gleaned from clinical scholarship had the potential to taint the doctoral study. Consequently, the potential for any possible assumptions and preconceived ideas directing the researcher towards the formulation of structured and leading questions had to be dealt with to avoid biases in the way data would be collected and research findings reported. The researcher appreciated the fact that interpretive interviews are notorious for potentially involving the possible subjective researcher influence on research. However, bracketing any preconceived ideas that literature could have revealed and gaining an awareness of personal biases and assumptions on clinical legal education sensitised the researcher. The utilisation of the bracketing technique had the effect of ensuring that any preconceived ideas were not imposed on the collection of data and on the interpretation of the research participants' perspectives and opinions on why the clinic in Zimbabwe was created and how it is sustained.

Secondly, one other way of staying open minded was maintaining theoretical insights into the operation of a clinical programme. This required the researcher to cultivate a personal theoretical sensitivity (Glaser and Strauss, 1967). This consisted of the researcher's ability to have some sort of theoretical insight into clinical legal education "combined with an ability to make something of insights" (Ibid: 46). On the other hand, Glaser (2005) encourages researchers to ignore the existing literature before entering the research field

with the belief that a story will emerge without the researcher doing anything other than listening and looking with an open mind. While the researcher agrees to a certain extent that we should put aside our personal perspectives when collecting and analysing fieldwork data, it must also be accepted that a researcher equally ought to have had knowledge and competence to conceptualise data. To capture data from his research participants, it was incumbent upon the researcher to ask questions on the operation of the clinic in Zimbabwe. The only possible way he could have done so and formulated semi-structured research questions as devices for data collection in Zimbabwe would be to survey a global literature first. The systematic review of literature identified factors that have been influential in the establishment and sustainability of clinical programmes in the world. To aid an understanding of the factors that have been influential in the establishment and sustainability of the law clinic in Zimbabwe, the researcher needed to identify factors that have been influential in other jurisdictions first. Consequently, this method of inquiry combined pre-determined setoff open questions that had the potential to prompt discussion and provide an opportunity for the researcher to explore themes and the research participants' responses further.

It must be acknowledged that the bracketing technique was a powerful device in resolving the preconceived ideas dilemma. The researcher's constant internal talk during reflexivity whenever a challenge arose during the entire research process had a positive and significant impact on how the researcher collected data and how he proceeded with coding his data without crossing the preconceived ideas line. The researcher's self-dialogue on this occasion raised an awareness of the fact that there was a fine line between avoiding the influence of concepts from the systematic review before fieldwork and the researcher gaining knowledge of clinical activity and the factors that have been influential in the establishment and sustainability of clinical legal education elsewhere in the world. The key was to remain focused and to maintain recognition that being sensitive to concepts generated from the literature surveyed was not the same as commitment to the preconceived theoretical frameworks. In undertaking a systematic review of literature on clinical legal education, the researcher was not only trying to demonstrate that a problem worthy of research existed from a Zimbabwean perspective but was also in a way striving to explain the main factors that we ought to consider relevant in the creation and sustainability of clinical programmes. In turn, this process aided an understanding of clinical activity in Zimbabwe.

The emerging result of that systematic review of literature process was a map of factors that required testing against the research findings presented in Chapter 7. The internal conversation the researcher had when he momentarily stepped outside of his research

process on this occasion and introspectively bracketed his assumptions about the field had a significant impact on how he proceeded with his collection of data and the ensuing coding process. The researcher's influence and that of the literature review was therefore neither avoidable nor undesirable but rather accepted as strategic in the analytic process. The researcher explicitly explored and acknowledged his epistemological position in Chapter 2 and it follows therefore that it was the pragmatic positioning in the early stages of the research process that ultimately framed the usefulness of a systematic review of literature on any subsequent data collection and analysis of data collected from Zimbabwe.

In addition to having undertaken a review of literature to theoretically sensitise clinical legal education, the researcher attended the European Network for Clinical Legal Education (ENCLE) workshop held at the University of Northumbria in April 2015. At that workshop, he facilitated an exercise in which clinical colleagues shared their experiences and views on factors they thought were influential in the creation and sustainability of clinical programmes within their own law schools. It was inevitable that the researcher would absorb this information even before going to Zimbabwe to carry out his own empirical research. Early versions of the grounded theory method would have encouraged a disregard of such views of colleagues in the beginning of the doctoral thesis to avoid contamination in coding. However, knowing what have been the influential factors in the establishment and sustainability of clinical legal education from previous studies and from colleagues before the researcher set off to Zimbabwe was necessary so as not to reinvent the wheel. Certainly, the researcher could not have avoided absorbing and being influenced by what he read and by the information shared by his colleagues at the ENCLE workshop. Nevertheless, the researcher was vigilant not to be terrorised by the literature (Becker, 1986) and allow it and the ENCLE exercise to dictate what he saw and gathered in Zimbabwe. For so long as the researcher continued with awareness that prior conceptions needed not become preconceptions (Strauss and Corbin, 1998) surveying literature, facilitating the ENCLE exercise and absorbing information from his colleagues at the workshop did not stifle his inventiveness. Instead, he took the next step in contextualising the Zimbabwean clinic in relationship to the jurisdiction's systems and institutions within which clinical legal education is embedded.

Being based at a foreign university and entering another jurisdiction and its institutions for empirical research required skill and patience. It therefore became incumbent upon the researcher to learn to speak as though he was part of the current Zimbabwean community particularly taking into consideration that, even though he is Zimbabwean, he has been living outside of Zimbabwe for over a decade. Being unfamiliar with the current legal and

educational framework governing legal education and the practice of law in Zimbabwe would have made the process of negotiation for access to research sites even more difficult than it was. Socio-economic, cultural and political contexts have considerable impact on the way in which a clinical programme would operate at a point in time. The research findings all point to the socio-economic, cultural and political status of the jurisdiction being a key indicator of why the law clinic in Zimbabwe was established and how it is sustained. It is therefore against this background that, to aid a better understanding of the Zimbabwean clinic, the researcher unpacked the following contextual framework:

- The role of the Council for Legal Education Zimbabwe
- The regulation of Legal Practitioners by the Law Society of Zimbabwe
- The jurisdictional policy on legal service delivery in Zimbabwe
- The activities of the Legal Resources Foundation in Zimbabwe
- The birth of clinical legal education in Zimbabwe as told by research participants

The next section therefore presents the history of legal education in Zimbabwe through a brief synopsis of different bodies and/or entities involved in setting the standards for the teaching and learning of the Bachelor of Laws (LLB) degree as a qualifying law degree. This discussion is followed by a discussion of the regulation of the legal profession through its regulator, the Law Society of Zimbabwe. The section also provides a helicopter view of the jurisdiction's framework in the delivery of legal services to members of the indigent communities and the role played by different non-governmental organisations such as, for example, the Legal Resources Foundation. The contextual background is aimed at aiding an understanding of how the law clinic operates in Zimbabwe.

6.3 The threshold for the recognition of a qualifying law degree

According to the Ministry of Justice, Legal and Parliamentary Affairs website (<http://www.justice.gov.zw>), (accessed on 5th December 2013), the Council for Legal Education in Zimbabwe is a statutory body created by the Zimbabwean Legislature to regulate the legal education and training of Lawyers in Zimbabwe. The Council's principal governing legislation is the Legal Practitioners Act (Chapter 27:07) (ZIMBABWE LEGAL PRACTITIONERS ACT, 1881). It operates using certain Council regulations in

discharging its responsibilities for ensuring quality of legal education and the “provision of legal training that is required to be undertaken by any holder of a law qualification from within Zimbabwe or from overseas wishing to be admitted as a legal practitioner in the [of the] (sic) High Court of Zimbabwe”

Specifically, the Council is statutorily mandated (Section 34 of the Legal Practitioners Act (Chapter 27:07) to function as follows:

1. To ensure the maintenance of appropriate standards in the legal education and training
2. To determine the qualifications registration for those seeking admission as legal practitioners
3. To determine syllabuses for and to set, either by itself or through examiners, professional examinations to qualify persons to be registered as legal practitioners
4. To consider and grant or refuse applications from persons seeking exemption from any professional examination set by the Council.

From a public interest point of view, the general activities of the Council would indicate a firm threshold for the recognition of a law qualification as a qualifying law degree for the practice of law in Zimbabwe. The intention of Parliament in enacting the law that regulates legal education and training of lawyers in Zimbabwe can be construed as an effort by the legislature to make sure that the public is assured of a quality service in the delivery of justice. However, without a clear intention of the legislature making clinical legal education a compulsory component of the legal education curriculum, it is doubtful that such an assurance can be upheld as revealed by the research findings in Chapter 7. Nevertheless, to fulfil this mandate, the Legislature invoked the terms of section 35(2) of the Legal Practitioners Act in empowering the Council to do the following:

1. To consider the content and standard of legal qualifications granted inside and outside Zimbabwe and to determine whether, and subject to what conditions, such qualifications should entitle their holders to registration in terms of the Legal Practitioners Act
2. To provide courses of study and training for persons who wish to be registered or who are registered in terms of this Act or who are engaged in any occupation connected with the practice of law
3. To advise the Minister and any educational institutions concerned on all matters relating to legal education and training

4. To review legislation relating to legal qualifications, education and training and to advise the Minister on amendments that it considers it should be made
5. To co-operate with other persons, institutions and authorities concerned with the provision of legal education or training, whether in Zimbabwe or elsewhere
6. To establish, support and maintain law libraries and reading rooms and to print, publish and circulate books and periodicals on law and legal subjects

The general activities of the Council as constituted by statute would otherwise indicate a clear desire by powers that be, to uphold high standards in the training of lawyers in Zimbabwe. Whether this has been feasible without a clear regulated mandate for the provision of a legal curriculum that has a clinical legal education component within it is doubtful and the extent to which that standard has been achieved in the current prevailing Zimbabwean situation is again doubtful as revealed by the research findings in Chapter 7 and discussed in Chapter 8.

6.4 Lawyers on a leash

In Zimbabwe, lawyers are governed by the Legal Practitioners Act, 1981, a statute that created the Law society of Zimbabwe. According to the Law Society of Zimbabwe website (<http://www.lawsociety.org.zw>), (accessed on 6th December 2013), the Society was created in 1981 to replace the previous Bar Association. The Society is a body which regulates the operation of legal practitioners to protect members of the public who could suffer loss of income when they fall prey to unscrupulous lawyers. Its membership is drawn from from every lawyer who is registered by the High Court of Zimbabwe as a Legal Practitioner residing in Zimbabwe whether in practice, commerce or civil service.

The Society's mission and vision is:

1. To promote the study of law
2. To contribute, undertake or make recommendations on legal training
3. To control admission of new members of the profession
4. To maintain a register of members
5. To regulate the profession in respect of continuing training, discipline and trust accounts

6. To represent the profession and articulate its views on various issues
7. To promote justice, defend human rights, rule of law and the independence of judiciary
8. To generally control and manage the legal profession

The Society derives its mandate from Section 53 of the Legal Practitioners Act (Chapter 27:07) and it is stated in the Law Society of Zimbabwe's 2014 Annual Report that the Society "is an apolitical, independence and professional body regulating the legal profession in Zimbabwe and representing its views" (The Law Society of Zimbabwe (2014) Annual Report: (THE LAW SOCIETY OF ZIMBABWE, (2014). ANNUAL REPORT) Deriving from that mandate, the Society has taken great strides in contributing to the continuing legal education and training of lawyers in Zimbabwe and has shown a keen interest in the standards of legal education at Law Schools. In its report, the Society states that in 2014, its "[c]ouncil took an active role in the development and maintenance of standards in the Law Faculties at Midlands State University and the Great Zimbabwe University" (Ibid: 9) by providing informed recommendations on the standards required for a qualifying law degree to both the Zimbabwe Council of Higher Education and the Council for Legal Education in Zimbabwe. Such an active role by the Society within the corridors of different legal education providers should be viewed as crucial in the education of future lawyers for social justice and in progressing the development of an inclusive legal education curriculum that ensures holders of law degrees designated with respect to Zimbabwe "continue to bring the same quality envisaged when the qualifications were so designated" (Ibid).

It should not be doubted therefore, that the functions of the Law Society of Zimbabwe, indicate its commitment to providing a route to indigent communities to access to justice. Furthermore, its commitment to the respect of the rule of law fostered through an experiential legal training lays a very strong foundation for the education of lawyers for social justice. Whether the Society has full succeeded in this mandate is debatable as again revealed by the research findings in Chapter 7.

6.5 The indigent person and legal aid provisions

The provision of legal aid is meant to assist people who otherwise would be unable to afford legal representation and accessing the Zimbabwean court systems. Yet the

availability of the provision depends on certain moral grounds, socio-economic fabrics of the society and political dispensations currently prevailing. Legal aid in Zimbabwe has evolved over a period and in 1980, the Legal Aid Directorate was established (Zimbabwe Legal Aid Act, 1996 (Chapter 7:16) to assist disadvantaged members of society in accessing justice through the provision of free legal advice and representation. (ZIMBABWE LEGAL AID ACT, 1996). According to the Act, the Legal Aid Directorate was created to function as follows:

1. To provide legal aid to persons who are eligible for such aid about any criminal, civil or other related matter
2. To do all things necessary to promote the provision of legal aid under this Act
3. To do any other thing that the Legal Aid Directorate may be required or permitted to do by or under this Act or any other enactment

While the enactment of such a law would normally aim at promoting access to justice, it is arguable if the Zimbabwean government has any measures in place to ensure that the spirit of the Constitution is met and that the indigent person can access justice through the provision of free legal advice and representation without costs as research findings in Chapter 7 have revealed.

6.6 The role of non-governmental organisations

According to the Legal Resources Foundation in Zimbabwe's website (<http://www.lrf.co.zw> - accessed on 20th December 2013), the Foundation was established in 1984 to meet an expressed need to improve the accessibility of legal and information services to all sections of the population. "Programmes undertaken by the LRF are based on the understanding that facilitating access to the legal system can advance human rights in Zimbabwe" (Ibid). The Foundation's mission is to improve access to justice and to promote human rights in Zimbabwe by:

1. Educating the population
2. Offering legal services
3. Providing legal and civil information
4. Promoting law and policy reform and citizen participation in governance

5. Monitoring human rights abuses

6. Training service providers in the justice system and public sector

When people can only afford to pay for basic commodities, it becomes the least of their problems to seek legal advice. This has witnessed the emerging of an alternative law movement in response to the failure of the traditional Zimbabwean political elite to effectively administer the provision of legal services to indigent members of the society. Activities of empowerment by the Foundation has provided the indigent person in Zimbabwe with access to justice. The role of the Foundation in providing legal services in Zimbabwe is a touchstone of alternative lawyering and a valuable use of public interest lawyering. The process of empowering through the provision of legal and civil information is a crucial form of a clinical legal education programme, i.e. legal literacy. There is no doubt that the education of the population and the promotion of law and policy reform and citizen participation in governance by the Foundation plays a significant role in shaping alternative law in Zimbabwe. The Foundation's concern with the process of empowering through popular legal education is crucial in advancing the cause for social justice which sometimes may unfortunately be viewed by the political elite as in direct collusion with the interests of those in the corridors of power. Understanding the dynamic of the transformative, liberating learning for the indigent members of our communities is essential in developing a framework for legal literacy particularly where law students are involved.

The monitoring of human rights abuses and the training of service providers in the justice system and public sector by the Foundation is a good starting point for the education of our law students in the form of externships. The work of the Foundation provides a fertile ground for quality education and is an important source by which the indigent community can become liberated from the structural legal constraints that limit social, intellectual and political participation.

6.7 Legal education in Zimbabwe

A glimpse of the background information on the origins of clinical legal education in Zimbabwe has been given through grey literature from the websites of three law schools in Zimbabwe; annual reports from the Law Society of Zimbabwe; Case A annual report 2013/2014; a review by Professor Robert Dinerstein on the Disability Rights and Law Schools Project for law schools in the Southern Africa region and indeed through

interviews given by the research participants. The contextual background to the jurisdiction was necessary in aiding a better understanding of the relationships and networks that link stakeholders in the education of law students in Zimbabwe. An understanding of the context in which clinical legal education in Zimbabwe is embedded was necessary in supporting the conduct of the formative research project and the identification of the research sites.

6.7.1 History of the University of Zimbabwe's Law School

Dean's Welcome Message

Since the establishment of a law degree at the then University of Rhodesia in the 1960s, the Faculty of Law which started as a department in the Faculty of Social Studies (and later as a department in the Faculty of Commerce) has grown by leaps and bounds. Initially the degree was split into 2 parts a 3-year Bachelor of Law degree (BL), followed by a one-year post-graduate LLB degree whose emphasis was practice related adjectival subjects. Our students have done extremely well at International Moot Court Competitions organized by the International Committee of the Red Cross (I.C.R.C) in Arusha, Tanzania. In 2007 and 2009 the University of Zimbabwe team competed against 14 or 15 other Law Faculties from South Africa, Kenya, Tanzania, Rwanda, Ghana, Nigeria, Ethiopia etc. The University of Zimbabwe team won the overall best performing team trophy and a host of other ancillary prizes and accolades, such as best speaker ships etc.

Legal Aid and Advice Scheme

This is one of the most well established units in the Faculty. Students take turns to advise "indigent members of the public on a variety of legal problems ranging from family law – related disputes, accident damages claims, peace orders, succession and inheritance disputes etc. Apart from offering free legal education advice to citizens who cannot afford the services of "commercial" lawyers, the Legal Aid clinic is used for practical skills training and demonstrations to our students. On average the Clinic handles between 150 to 200 cases per annum and with a significant number of these cases being satisfactorily resolved.

Source: www.uz.ac.uk (accessed on 5th January 2014)

6.7.2 History of the Midlands State University's Law School

Foreword

The Midlands State University Law School is located in Gweru in the Midlands Province of Zimbabwe. It is situated about 5 kilometres from the City Centre. It is located at the Graduate School of Business Leadership, Faculty of Law and Faculty of Commerce Campus. The Faculty averages a student enrolment of 200 students across all levels. Designated by the Council for Legal Education on the 7th of March 2007, the Midlands State University Law School marks an important chapter in Zimbabwean academic history, as it is the first law school to be successfully established in post-independence Zimbabwe. Driven by our motto, pioneering for a better legal frontier, we have cultivated a culture of hunger for more knowledge as we believe that knowledge is power. Our wide network is made possible, by our enterprising Vice Chancellor, and teaching staff who hail from diverse legal backgrounds. We have ingrained this culture in our alumni who are ever widening their circle of influence while advertising their cradle on the regional and international arena.

The Law School is geared towards providing quality legal education that is relevant to the needs of the country and the world. From the first day of orientation to the final gathering at graduation, the Law School offers an extraordinary experience. Producing legal professionals that are meticulous, conversant, diverse and adaptive within the global village is the law school's passion. In addition to our library, our unmatched lecturer-student ratio allows us to offer a vast array of courses. With an average class size of below 25 students and countless opportunities for independent research, writing, and student organized discussion groups, the school offers a conducive environment for studying law. The Law school also seeks to expand its networks by establishing partnerships with other academic institutions worldwide. In pursuit of the objective of cross pollinating ideas, the Faculty of Law is a member of the International Association of Law Schools (IALS) and has a Student and Staff Exchange Agreement with Rhodes University, South Africa. The Faculty of Law also cooperates with partner universities in the Disability Rights and Law Schools Project that is funded by OSISA

Source: www.msu.ac.zw (accessed on 5th January 2014)

6.7.3 History of the Great Zimbabwe University's Law School

The Great Zimbabwe University, then known as Masvingo State University, was established through the recommendations of the Chetsanga Report of August 1995 which proposed the devolution of Teachers' and Technical Colleges into degree awarding institutions that would eventually become universities.

Source: www.gzu.ac.zw (accessed on 10th October 2014)

The grey literature review approach enabled the researcher to develop a research project that was well adapted to the broad Zimbabwean context, albeit a few challenges and the difficult experience of trying to facilitate and maintain qualitative research access into a sample of two institutions of higher education in Zimbabwe where clinical was thought to be in operation. The researcher begins the next section by explaining research ethics before considering the process involved in his application for ethics approval and how it was achieved at the University of Northumbria. In addition, the section will highlight how consent was sought by the researcher and approved by the Research Council of Zimbabwe following a protracted negotiation process for access. It will further highlight the challenges the researcher faced in applying for institutional affiliation with the gatekeepers at Case A. Through a description of the personal experience during the life span of the doctoral study, the researcher explains why it was important to adhere to the University of Northumbria's ethics guidelines at all the times. The section highlights issues that needed to be dealt with to ensure that the research process did not proceed on an unethical course. It concludes by proposing certain strategies for gaining access in fieldwork.

6.8 The consideration of ethics

When undertaking research, particularly where people were used as research participants, it was important for the researcher to "attempt to formulate codes and principles of moral behaviour" (May, 2011: 61). The entrance to the realm of philosophical ethics was marked by a critical reflection upon the use of Zimbabwean clinicians as research participants for the same reasons given in section 6.2 of this chapter. They were considered the most suited sources of rich data as they were directly involved with the operation of the clinic in Zimbabwe. This reflection necessitated an application for ethics approval from the University of Northumbria. The ethical decisions that the researcher made prior to and during the research arose when he tried to decide, on many occasions,

between one course of action and another not in terms of expediency or efficiency to complete the study but by “reference to standards of what is morally right or wrong” (Barnes, 1979:16). The ethical decisions the researcher took were based upon principles because undertaking a research of this magnitude in a country such as Zimbabwe required a responsibility to protect the interests of those who were willing to voluntarily participate in the research process (Flick, 2006). In adopting an ethical manner when conducting interviews in Zimbabwe, the researcher endeavoured to maintain the integrity of his research enquiry. In the process, he gained the trust of his research participants and thence opened floodgates of openness from research participants.

6.9 Ethics approval application: University of Northumbria

It is not uncommon for issues concerning ethics to emerge unexpectedly at any stage of research and it was therefore important that the researcher remained alert, vigilant and prepared to deal with any arising ethical issues as and when they emerge. Specific ethical considerations arose for this doctoral study as it involved human research participants which required a detailed explanation of procedural protocol to the University of Northumbria Research Ethics Committee. Subsequently, he obtained a formal approval for his research plan and adhered to certain guidelines as proffered by the National Research Council, (2003: 23-28). He gained *informed consent* from research participants by alerting them to the nature of the study and formally solicited their voluntary participation in the study. The researcher protected the research participants from any harm, including avoiding the use of any *deception* in his research. He protected the *privacy and confidentiality* of his research participants to avoid putting themselves unwittingly in any undesirable position particularly taking into consideration that circumstances re-routed the research from being a multiple-case study to being a single-case study. However, no guarantees were given on confidentiality. The researcher took special precautions needed to protect *especially vulnerable groups* and selected participants *equitably*, so that no groups of people were unfairly included or excluded from the research. Formal approval of the research came from the University of Northumbria’s Ethics Committee after he had brought to their attention such information as to how he planned to interact with his research participants prior to getting to Zimbabwe; during his stay in Zimbabwe and after the collection of data. The Committee had the opportunity to review his data collection tools and how he intended to use the instruments. Copies of individual and organisational informed consent forms in which he laid out exactly how he intended to “ensure such protections as informed consent, avoidance of harm, and

confidentiality” (Yin, 2014: 78) were submitted to the Committee, albeit without any guarantees made of confidentiality.

6.10 Individual and organisational informed consent

There is no doubt that gaining informed consent would have been extremely problematic had the researcher been not clear on what exactly his research participants were consenting to and “where ‘participation’ begins and ends” (Miller et al., 2012: 61). The forms made it clear that participation in the research was voluntary and withdrawal would be accepted at any stage of participation. The forms clearly stated the roles of both the researcher and the research participants to ensure that each research participant could make an informed decision about whether to participate in the research. It was incumbent upon the researcher to furnish his research participants with full research information before he expected them to agree to participate. He ensured, from the beginning of drafting the consent forms, that the aims and objectives of the research on clinical legal education, albeit from a Zimbabwean perspective, were clear and comprehensible. The tools of research i.e. interview, documentary examination and observation, were clearly stated out on the consent forms including how they would be used to achieve the aims and objectives of the doctoral study. The ability in obtaining ethics approval did not mean that observing ethics should not have to be thought about again (Miller, et al., 2012: 71) particularly considering how difficult it was gaining access into organisations and carrying out interviews with research participants.

6.11 Negotiating access into research sites

Once the researcher obtained his ethics application approval from the University of Northumbria in April 2014, the reality of access negotiation began in earnest. Upon completion of the systematic review of literature, the focus shifted from an analysis of the clinical scholarship to the reality of working with human research participants in Zimbabwe. It was therefore essential that the researcher knew how to appropriately negotiate and gain access without spending a lot of time on the task of preparing for the actual time that he had start to negotiate for access (Okumus et al., 2007). Even though the researcher was not oblivious to the fact that negotiations could even stretch for a year

before a permit is issued and hence started early on to apply for access, the process was extremely difficult to navigate.

The researcher had to negotiate getting into territories that could '*now*' be considered foreign to him following years of living abroad and therefore the need to use his social skills became more pronounced (Wasserman and Clair, 2007) than ever before. The need to gain the trust of the targeted institutions in order that his application for institution affiliation could be approved by the gatekeepers at Case A and Case B before the Research Council of Zimbabwe could release a research permit became critical. Thus, negotiation began at the PhD's infancy stage and it involved quite a lot of strategic planning, communication and bouts of anxiety. Thoughts of being viewed as an outsider studying at a foreign institution became common for the first 18 months of the research. Even though the researcher is originally from Zimbabwe, the feelings of being considered an outsider became part and parcel of his life for 18 months and as such, the PhD research process basically took control of his life during that period. Researchers who are considered foreign to targeted host organisations would not normally be welcomed, particularly if they ask questions that are sensitive and awkward (Okumus et al., 2007). Initially, the researcher feared that his research on clinical legal education would not be viewed as important because some institutions do not value research. This fear was also compounded by anxieties around whether the targeted institutions would appreciate this doctoral study as adding value (Coleman, 1996) to their own institutions.

Thinking strategically and planning were skills the researcher required in conducting research that involved negotiating access (Fieldman, et al., 2003). Trying to gain access to the two targeted organisations involved convincing gatekeepers and research participants who would be useful in providing data. Developing a rapport; first with contacts that were already known to the researcher outside of the corridors of the targeted institutions and secondly, with contacts that were known by his research supervision team and other members of staff from the University of Northumbria's Student Law Office became crucial. Knowing how the system worked in the host country was crucial in gaining access. As the researcher had to find out the hard way, embarking on a research without the full understanding of the current dynamics of how Zimbabwe and her institutions '*now*' work was close to futility. Even though the researcher is a native of Zimbabwe by birth but now settled in the United Kingdom, his knowledge of the current socio-economic and political fabric of Zimbabwe including the dynamics of institutional structures in that jurisdiction was quite limited in comparison to a fellow native currently settled in Zimbabwe.

The lack of response to formal emails sent out to two targeted institutions in Zimbabwe in June 2014 sent the researcher into a panic mode. From the beginning of the research programme, it had always played in the researcher's mind that his ability to collect data from Zimbabwe and complete his research project was dependant on gaining access to the data source. The appropriateness of that source would of course depend on his research question, the aim and objectives of the research. However, gaining access to individuals required nearly a year of preparation but that also depended on the level of access the researcher wanted (Fieldman et al., 2003). There was a need to develop a reputation for consistency and integrity (Johl and Ranganathan, 2009) and it was therefore important to have someone within the targeted institutions who could vouch for the researcher's presence at the research sites. When the first two sets of formal emails went out to the two targeted institutions in June 2014 the only contact the researcher had was a brief conversation with someone whose email details were passed on by a member of staff from the University of Northumbria. There was only one email exchange with this contact. Subsequent emails from the researcher to the contact were no longer responded to and this one-way traffic type of communication created a lot of anxiety for the researcher. It was exacerbated by the fact that even formal introductory emails sent to the two institutions were not replied to.

The researcher had to think strategically and find someone who would help him build a web of relationships within the corridors of each of the two universities. In this way, it would have been easy for him to laterally and vertically build relationships with gatekeepers and research participants. It was by chance that the researcher found out that a childhood friend of his was lecturing at one of the two institutions and he decided that he would use his friend as a point of contact to assist in building that first web of relationships. Following suggestions from that contact, the researcher sought permission to research in Zimbabwe directly from the Ministry of Tertiary and Higher Education in Zimbabwe. Unfortunately, this contact was based outside of Harare where the ministry's headquarters were and so could not run errands on behalf of the researcher where a need arose. This precipitated a need to look for and locate other contacts in Harare that would be able to liaise with the ministry on behalf of the researcher. Application letters were drafted and sent to Zimbabwe through DHL services in August 2014. The initial response from the ministry through the Harare based contact was a request for further documentary information. After sending all the requested documentation and waiting for several months for a response, the Harare based contact was informed to advise the researcher that the ministry could not handle such an application. Subsequently, the researcher was referred to the Research Council of Zimbabwe where verification of his status in the United Kingdom was sought. As the Zimbabwean passport belonging to the researcher had

expired, he was informed by the Council that he could no longer be treated as a Zimbabwean national for the purposes of carrying out research in Zimbabwe. Using his British passport meant that the researcher had to be classified as a foreigner. That status attracted a non-refundable fee of 500.00 United States Dollars.

Following a resubmission of the initial documentation to the Research Council of Zimbabwe in September 2014, to verify the researcher's nationality and clarify issues concerning intellectual property, the researcher was advised by the Council to complete request for affiliation application forms and forward them to the institution of his choice. He was warned that a Research Permit would only be issued out by the Council if an application for affiliation with the institution of choice was approved by that institution and upon making a non-refundable fee together with all the necessary documentation. This process of negotiating for affiliation at institutional level began in earnest in November 2014. The process of applying for institutional affiliation was excruciating and progress was slow as it depended on hierarchical access and on the availability of certain gatekeepers. There were moments during the difficult time of negotiation that the researcher stepped outside of the research process wondered whether his ability to gain access would depend entirely on whether his empirical research was in tandem with the norms and sometimes hidden agendas, ideologies and cultures of that particular jurisdiction and/or institution. This would have required the researcher to change tact on how he spoke of his research to maintain conformity to the gatekeepers' attitudes about what he was researching upon (Lee, 1993).

For over three months, the contact person at the first institution ran around coordinating the completion of the affiliation application forms on behalf of the researcher. Finally, the affiliation application form was completed in March 2015 and again the researcher had to coordinate its submission to the Council through his other contact in Harare, albeit at a very huge expense. The initial attempt at submitting the completed form hit a snag as it got rejected by the Council for the sole reason that the form lacked the signature of one of the key gatekeepers at Case A. An urgent email was sent to the contact at the institution to get the form appended with the required signature to confirm approval of the application for affiliation. Following what seemed like a very long wait and the continued build-up of bouts of anxiety and an endurance of high stress levels, the form eventually got amended and emailed back to the researcher by his contact from the institution that approved the affiliation application. After a lot of email exchanges and upon submission for the second time, the contact in Harare was advised that the researcher had to reproduce and submit eleven more copies of his original file. This was also done at a very huge expense in terms of time and monetary resources.

Finally, on the 9th April 2015 the Research Council of Zimbabwe issued the researcher with a year-long Research Permit following submission of evidence of approval for the institution affiliation application. A letter of introduction was also issued to one of the gatekeepers at that institution but not at the other targeted institution. This created a research dilemma for the researcher as he had set out to carry out interviews at two institutions in Zimbabwe. Upon further enquiries with the Council, to correct this anomaly, the researcher was advised by the Council that he could use the same Research Permit for conducting interviews at Case B so long as he had access to enter the institution. That meant that the researcher had to go through the whole process of affiliation application again if he needed to access the other targeted institution. This proved extremely difficult to achieve as emails and telephone calls to Case B went unanswered. Consequently, this turn of events did not only become a limitation of the research process as highlighted in Chapter 5 and discussed in Chapter 8 but also sent the researcher into an unavoidable panic mode. The inevitability of the doctoral study now taking a single case study approach posed an ethical dilemma that required the researcher to temporarily step out of his research process, pause and listen to an internal monologue as the reality of the difficulty in guaranteeing confidentiality to research participants sank in.

6.11.1 Confidentiality dilemma: a hump calling for reflexive reappraisal

Trying to balance the interests of the research participants and the researcher's desire to collect data from Zimbabwe and achieve publications (Finch, 1993) posed a dilemma. The researcher was already thinking about publishing his research either in parts or in whole: *Would the publication of the thesis or parts of it adversely affect the physical, social and psychological wellbeing of the research participants when the research output gets published? Would there be a risk of participants' identification by security authorities and retribution considering that there are only three law schools in Zimbabwe, two with clinical programmes and one having not responded to requests for access?* As the researcher pondered with these sorts of questions, he recognised that confidentiality and safeguarding were research concepts that were difficult to define, clarify and indeed guarantee. At that critical stage of engaging with an internal monologue, it became apparent that confidentiality and safeguarding concepts would be problematic for this type of research due to its single case study nature and the fact that it *may* be easy to identify who the research participants of the study were.

The researcher pondered: *Should the researcher return to Zimbabwe sometime after publication of his doctoral study to examine the effects on his research participants of*

having taken part in the interview process? Should the researcher define confidentiality as a universally category which all doctoral studies apply uniformly or should he be pragmatic; let fluidity take its course; offer an opportunity for the notion of safeguarding to be co-constructed between himself and his research participants according to the prevailing situation in Zimbabwe? Upon a realisation that the research sample was of highly educated, employed academics and practitioners who would not usually be regarded as a vulnerable group (Gatrell, 2009), the inner voice redirected the researcher outward towards a specific action to take in dealing with the confidentiality hump. The researcher emerged from the internal monologue confident enough to take confidentiality and safeguarding issues to the research participant to participate in the co-construct of the notion. The internal monologue offered the researcher with an opportunity to take a deep reflection on how he should deal with the issue of confidentiality and safeguarding. The researcher admits that even though it was worthwhile to hear the inner voice rambling about where to turn in face of the confidentiality hump caused by the turn of events following the non-response by the other institution for requests to access the research site, the inner journey was scary. It was dark in there but the experience he found within himself listening to the inner voice brought ideas on how he should deal with his concerns about accountability as a researcher and the welfare of his research participants.

Each research participant was informed by the researcher of the difficulty in obtaining access at the other institution. It was made clear that the turn of events had made the researcher reflect critically upon his own research practice and the safeguarding of his research participants. The researcher made each research participant become aware that their institution might end up being the only participating research site. He enquired whether research participants would perceive the research as something that would put them in danger. He emphasised how important it was for him to prioritise the potential effect of his research on his research participants (Holloway and Jefferson, 2000). It was incumbent upon the researcher to inform each of his research participants, before each interview, of the risk of identification. Identification would not only be by the gatekeepers who authorised the researcher to affiliate with the institution to carry out the research at that institution, but may also be by other external forces who may feel that this type of research was intrusive and anyone found to have participated in the research should face retribution.

Research participants were clearly informed that complete confidentiality would be difficult to guarantee particularly taking into consideration that access to the other institution had not been gained; there was no guarantee that it would and currently, there were only two law schools with grey literature evidence of the existence of a clinical programme. The

researcher made each of his research participants become aware of his own serious concerns on the potentially exploratory nature of his research interview approach. The study aimed at having participants draw upon their personal issues on clinical legal education in Zimbabwe. Nevertheless, research participants were keen to continue with the interviews as they regarded the experience of interview participation a contribution to the development of new knowledge around clinical activity in Zimbabwe. They viewed the doctoral study as an innovation and hence saw the interviewing process as an “opportunity to articulate” (Haynes, 2006: 210) their feelings, perceptions, opinions and anxieties to the researcher whom they viewed as a non-judgemental listener. Research participants did not perceive the confidentiality and safeguarding concepts as reasons to avoid participation in an interview exercise they considered so important nor did they consider themselves as vulnerable because the researcher could not guarantee them with confidentiality. Rather, each research participant felt as part of the research process; an agent and partner towards the construction of knowledge on clinical legal education, albeit from a Zimbabwean perspective.

There is therefore an indication that research participants perceived confidentiality and safeguarding concepts as blocks that they constructed with the researcher as they took ownership of their decision to take part in the in the research process. They took ownership after having been clearly informed about the content and purpose of the research process and the possible effects on their physical and psychological well-being. In response to the keenness to continue with the process by research participants, the researcher assured each of the research participants that even though confidentiality could not be guaranteed, steps would be taken to minimise the risk of identification by using codes for all the interview transcripts. Despite the keenness on the part of research participants to continue with the process nevertheless, the deep reflexivity reappraisal that the researcher briefly got into is a clear indication of the need to ponder on ethical dilemmas, discuss and outline research boundaries and options with research participants prior to an interview exercise. By so doing, the researcher not only informed his research participants of the difficult in guaranteeing confidentiality but also went a step further in offering each of his research participants a share in the research accountability for safeguarding their physical and psychological well-being.

6.12 Entry into Zimbabwe in pursuant of rich fieldwork data

Upon being cleared by the Research Council of Zimbabwe in April 2015 following a successful application for institutional affiliation with one of the targeted organisation, the researcher embarked on the task of categorizing and organising entry into the data field. Upon arrival at the research site, five research participants were presented to the researcher by the institution's gatekeepers as available for the interview exercise. They were all clinicians with current and previous experience of legal practice.

Outlining the profiles of research participants in the form of clinicians and legal practitioners was necessary. Some of the clinical pedagogy duties performed by the respondents require some form and level of expertise and experience (Creswell, 2009). These are essential for understanding why clinics are created and how they are sustained. Legal practice and clinical experience as biographical data assisted the researcher in determining whether the views of the research participants were congruent with their knowledge of the factors influential in the creation and sustainability of a clinical pedagogy. A fuller understanding of the research participants' gender and experience would make it easier to understand why certain factors would be influential in the creation and sustainability of clinical programmes vis-a-vis the education of law students and the delivery of social justice to indigent members of the community. The gender of the research participants, professional and academic qualifications of all respondents, the experience and positions they hold within and outside the legal aid clinical is profiled next. The profiling indicates the biographical data that assisted the researcher in providing critical information on research participants who took part in advancing the aim and objectives of this doctoral study. The researcher hoped that the examination of academic and professional qualifications of the respondents, for instance, would aid a better understanding and the appreciation of the calibre of the research participants (Kuper et al., 2008).

6.12.1 The gender and age range of research participants

The five research participants who were interviewed for the doctoral study were all male. They all had a university-level education. They all had legal practice and teaching experience in the academia. Some clinicians worked fulltime as academics with the clinical component as an additional workload. Some worked fulltime as legal practitioners but with a lecturing position at the institution. However, the researcher did not set out to

interview research participants based on any gender and/or from any specific feminist/masculine standpoints because he considered that gender balance was already well served in the literature he reviewed. Besides, the theoretical constructs from the literature review that were useful in formulating the interview questions for fieldwork came from clinical scholarship that was written and published by men and women clinicians in the field. The research aim and objectives were therefore fulfilled without the need to take any gender standpoint. The need for gender classification and any slightest requirement for gender balance in carrying out interviews became irrelevant and was therefore made redundant on that basis. Even though the age of the research participants was one of the important variables in clinical activity in Zimbabwe, the exact age range cannot be revealed due to confidentiality arising from the fact that interviewees came from a single institution and there was therefore a need on the part of the researcher to safeguard their age range to mitigate against the possibility of them being identified. Suffice to say though no single respondent was below the age of 21. It is noted that all the respondents were above the age of 21. It was assumed that the fact that the respondents were above this age, it would be indicative of the level of maturity of the clinicians involved in the running of the legal aid clinic at Case A. It was further assumed that their maturity could impact positively on the quality of responses to the questions asked and the discussions ensuing during the interview exercises that took place at Case A.

6.12.2 Length of service of research participants

It was also the intention of the researcher to establish the length of service of the clinicians who were sampled as this had a direct bearing on their level and nature of participation in the clinical legal education process at the institution. Some respondents had over 25 years of legal practice and five years of clinical pedagogy practice within the institution. There were some respondents who were in fulltime legal practice and at the same time involved in the running of the legal aid clinic. There were also some who had years in legal practice before going into academia fulltime and taking part in the running of the legal aid clinic. The experience dynamics of the research participants from this data is indicative of the vast experience of clinicians at the legal aid clinic at Case A, not only of being clinicians but also as current and/or previous legal practitioners.

6.12.3 Professional and academic qualifications of research participants

The researcher also sought to establish the professional qualifications of the clinicians who participated in the research. In terms of the academic qualifications, the biographical data revealed that all the clinicians were holders of a Bachelor of Laws Degree (LLB). Eighty percent of the research participants interviewed were holders of a Masters' Degree either in Law or in another related field. All respondents were professionally trained and regulated legal practitioners with current practising certificates either in private practice and/or at the legal aid clinic. Amongst all research participants, sixty percent were working towards either a PhD in Law or a related professional doctorate in law (LLD). From this information, the research participants were most likely to understand the processes involved in combining legal education and professional skills in the education of students and might have themselves participated in a clinical pedagogy either as students or indeed as members of staff. With this level of academic and profession qualification, the researcher believed that the respondent clinicians could strategically plan, implement and sustain a clinical programme, hence participate actively and meaningfully in the clinical pedagogy process at their respective institution of higher learning. The level of their educational and professional qualifications supported the idea that it would be possible for them to understand why clinics start and how they last and that they could participate and contribute in the education of students that involve a clinical component.

6.12.4 Clinicians experience and roles in legal practice and clinical pedagogy

The doctoral study sought to establish the experience and roles of each respondent in legal practice and at the institution. Eighty percent of the research participants held management roles in the faculty, within the legal aid clinic itself and in legal practice. They all had more than five years' experience in the positions they held. Forty percent had been in paid legal practice before taking fulltime academic roles at the institution. Twenty percent held a very senior position at the Law Society of Zimbabwe which regulates the jurisdiction's legal practitioners. Forty percent of the clinicians held senior positions at their respective firms of legal practice. It was assumed that the positions held by the respondents allowed for automatic involvement and participation in clinical pedagogy and other middle and top management activities such as academic board meetings, financial and human resources meetings and different stakeholder meetings.

6.12.5 Focussing on clinic staff and not the wider law school staff rationale

Based on theoretical constructs from the literature reviewed and discussed in Chapter 4, research participants for this doctoral study had to be a convenience sample of any number of academics, legal practitioners and/or clinicians who have been involved in the operation of the legal aid clinic at Case A. Even though they had to be members of the general faculty of law, they had to be clinical pedagogy experts and working within the legal aid clinic. The research participants should have been in the employ of the institution either as full time or part time staff. However, the choice of research participants to participate in the doctoral study was not based on any sexual orientation, race, gender or ethnicity. However, academics within the faculty of law who were not involved in the operation of the clinical programme were excluded because the researcher felt that any other person not involved with a clinical pedagogy would not best inform the research question and enhance the understanding of the factors that have been influential in the establishment and sustainability of clinical legal education at that institution. Hence, one of the most important tasks in the study design phase was to identify appropriate participants from the complement of 26 staff members in the faculty of law. Decisions regarding the selection of the research participants and the exclusion of the other 21 members of the faculty were based on the aim and objectives of the research, the study's research question, theoretical constructs from clinical scholarship and evidence informing the doctoral study.

The researcher sought to interview research participants holding positions within the legal aid clinic that would allow them to inform important facets and perspectives related to clinical legal education. The researcher sought to elicit from his research participants, opinions on the operation of a clinical programme and perspectives on why clinics start and how clinics can be sustained, as informed by their actual participation in the legal aid clinic at Case A. In a study looking at legal education and professional skills, representative research participants were considered by combining the role they play as legal practitioners and clinicians and the perspectives given by those who approve/disapprove the clinical pedagogy intervention as informed by their actual participation and practice at the legal aid clinic. The sample percentage of the appropriate people interviewed out of the total complement of five members of staff engaged in clinical legal education was therefore 100%. Five clinicians are involved with a clinical pedagogy at Case A. All five clinicians were interviewed. This percentage is not inclusive of the other 21 members of staff in the faculty of law who were academics but not directly involved with the operation of the legal aid clinic. The 21 members of the academic staff were excluded on that basis and their participation in the research project would not have

achieved the aim and objectives of the research. The literature reviewed which identified several factors as influential in the establishment and sustainability of clinical legal education were written by clinicians. The review did not retain any relevant clinical scholarship by outsiders or academics not involved with clinical legal education. Theoretical sampling played a part in the researcher's decision not to interview the other 21 members of the faculty of law that were not involved in the clinical legal education at Case A. For this doctoral study, theoretical sampling was a process of data collection for generating theory whereby the researcher jointly collected codes and analysed textual data from literature before making a decision of what data to collect from Zimbabwe, from which institution and from what sort of research participants. Data collection was directed by theoretical sampling, which meant that the sampling was based on theoretically relevant constructs from the reviewed literature. Theoretical sampling enabled the researcher to select the five research participants that maximized the potential to discover as many dimensions and conditions related to the clinical legal education as possible (Strauss & Corbin, 1998). Thus, the sampling strategy for this doctoral study in which five research participants were selected from a compliment of 26 members of the faculty of law at Case A, was guided by the ideas that emerged from the data analysis of the journal articles written by clinicians and selected through the systematic review of literature conducted by the researcher.

Consent was sought from research subjects. They were all encouraged to participate widely by getting themselves involved in reading and commenting on the interview transcripts if they wished. The researcher offered to provide a record of the research findings to the research participants at the end of the research project. However, the research participants wanted to go beyond the mere sharing of research findings and encouraged the researcher to publish his interpretations of the findings as a *'how to do it'* type of a guide to the establishment and sustainability of a clinical programme. This was a complete shift from what the researcher had set to do when he embarked on the research programme. The shift from the researcher's initial anticipation to the expectation of the research participants created all sorts anxieties for the researcher. He started wondering whether his research findings would resonate with his research participants' own expectations. This overriding interest in having a guide on how to establish and sustain a law clinic, albeit from a Zimbabwean context, seem to have been influenced by the fact that there had never been any comprehensive research on the Zimbabwean clinic.

Without getting into too much detail with regards to the data collected, which of course is the purview of the two final chapters of the thesis, the following excerpt from one of the

interviewees is a good example of how the research participants had their own ideas about the research on law clinics in Zimbabwe and its possible outcomes:

“This is a very interesting research on clinical legal education. I believe it is important and the first of its own kind in Zimbabwe. While it would be interesting to see how the research outcome would be, it would also be a good idea to get out of the research a guide on how to establish and sustain a law clinic in Zimbabwe” (research participant RP1).

6.13 Access to research sites strategies

Gaining entry to the research site in Zimbabwe was not a straightforward process when undertaking empirical research of this nature. The ability to invest in time and optimise efficiency became so crucial. Timing had a significant impact on the subsequent completion of the doctoral study process. It was therefore incumbent upon the researcher to have a clear understanding that the execution of his doctoral research process and planning would be an iterative and laborious cycle that required skill, flexibility, commitment, perseverance and knowledge of the current dynamics of how the system works in Zimbabwe. The researcher followed a four-stage access model that has been suggested by Buchanan et al., (1998):

Getting IN (Zimbabwe and Case A) _ ***Getting ON*** (Interviews with research participants) _ ***Getting OUT*** (Case A and Zimbabwe) _ ***Getting BACK*** (Zimbabwe and Case A)

The researcher was clear about his research aim and objectives including choosing his research sites and planning the connection between the researcher and the research participants (Patton, 2002) just after the commencement of his doctoral programme. The choice of research sites influenced how the researcher would travel from the United Kingdom to Zimbabwe and hence time and resources was a crucial factor to consider (Johl and Ranganathan, 2009) before travelling to Zimbabwe. Getting to know about the current situation in Zimbabwe; putting an application for entry into the jurisdiction for the purposes of research; having an application for institutional affiliation approved; the subsequent release by the Zimbabwean authorities of the Research Permit and the researcher's ultimate flight into Zimbabwe marked the *Getting IN* stage in May 2015. Upon receipt of the Research Permit from the Research Council of Zimbabwe, the researcher travelled to Zimbabwe as he now had gained access to visit one of the targeted institutions. However, it became necessary for him to renegotiate entry into the actual busy schedules of his research participants in that institution. Having basic interpersonal

and social skills; verbal and nonverbal communication adroitness and observing rules of modern etiquette and appearance played an important role (Burgess, 1984) in the researcher's ability to collect data. The arrival in Zimbabwe and at Case A; exercising patience; spending some time with research participants outside interview rooms; getting to know research surroundings and ultimately building rapport and engaging with the research participants through audio recorded interviews, marked the researcher's *Getting ON* stage where collection of data commenced. Concerning the *Getting OUT* stage, the best strategy was agreeing on a deadline for the closure of data collection process (Johl and Ranganathan, 2009). On arrival at Case A, one of the gatekeepers drew up a timetable for the researcher with interview slots, names of the interviewees, times and venues of where and when the interviews would be conducted. The last slot on that timetable marked the end of data collection from that institution.

The fact that the researcher had a Research Permit that ran from 9th April 2015 with an expiry date of 9th April 2016 meant that upon return from Zimbabwe, he could always go back into the field before the expiry of the Research Permit if need be. However, going back to Zimbabwe depended on whether there would be a need to do so. The researcher had put energy and commitment to his collection of data and as it turned out there was no need to get back to Zimbabwe to collect more data. Nevertheless, how one leaves the research site after collection of data determines future relationships with that host organisation. This process lays the foundation for the *Getting BACK* stage. The researcher's exit was handled with due diligence and care to keep the option of returning to Zimbabwe for any field work in the future open. The option to return ought to be maintained through continued respect for the authorities in Zimbabwe, gatekeepers at the targeted institutions and indeed the actual research participants who took part in interviews. It was incumbent upon the researcher to have had carefully managed the process of withdrawal from Case A favourably (Buchanan et al., 1998) as this would undoubtedly keep the doors open for successive rounds of data collection if the need arises. What the researcher learnt out of all the difficulty with negotiating for access is the appreciation that despite his empirical research having had obstacles, he neither neglected the obstacles (Gummesson, 2000) nor saw them as merely tactical issues.

The researcher's fieldwork experiences suggest that going into other organisations with a view of carrying out interviews and then using that data for research project run from an institution alien to the research sites pose significant challenges for researchers. It is therefore crucial that researchers; their supervision teams recognise that there are critical issues that require a thorough consideration and the ability to deal with at an early stage. The data analysed and presented as research findings in the following chapter could not

have been successfully collected had it not been for the researcher developing relevant skills in dealing with the complexities of facilitating and gaining access into foreign based institutions and/or research sites.

CHAPTER 7 – CASE STUDY RESEARCH FINDINGS

7.1 Introduction

Despite empirical research challenges presented in detail in the previous chapter, the doctoral study achieved its aim and objectives. This chapter presents an analysis of data using grounded theory devices to generate theory. To observe and maintain the principles of ethical research practice, the identities of the five research participants have been anonymised. Each research participant is coded as Research Participant (RP) with a number after the acronym. The research place is identified as Case A. The chapter is therefore designed as the first step to test the various factors identified from literature as having been influential in the establishment and sustainability of clinical programmes against factors grounded in data collected from Zimbabwe.

7.2 Research questions

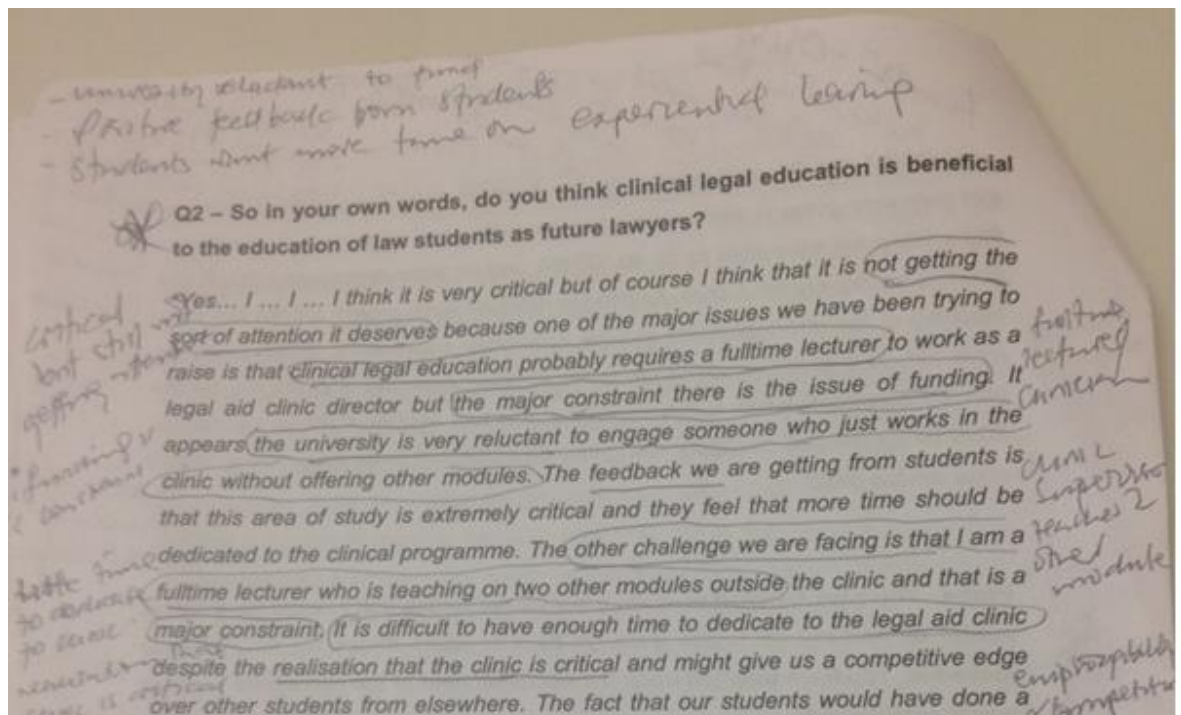
To answer the research question an interview schedule with questions on themes generated from the literature reviewed was prepared before the researcher embarked on field work to Zimbabwe. Five practitioner academics were interviewed. They gave their own independent opinions concerning influential factors they thought were relevant in the establishment and sustainability of their law clinic. Research findings were analysed using a grounded theory method that involved a three-stage coding process espoused by Strauss and Corbin (1990; 1998). The choice of the Straussian grounded theory approach as the appropriate data analysis tool lay in its ability to foster creativity and innovation; its potential for conceptualisation; its systematic approach to data analysis and the fact that it enabled the researcher to collect rich data. Concepts from the data were identified through a constant comparative analysis of research participants' transcribed interview scripts. The first stage of analysis of the data allowed the researcher to remain open minded to ideas about what he wanted to find out from the data on clinical legal education in Zimbabwe. The next stage of analysis involved the interconnection of codes the researcher created. In turn, the codes were further analysed and placed into categories whose relationships were sought using a coding paradigm that aided an understanding of

the clinic in Zimbabwe. The last stage in the coding process involved the selection of a key category that allowed the generation of theory on the factors that have been influential in the establishment and sustainability of the clinical programme in Zimbabwe.

7.3 Open coding the interview transcripts: concepts building

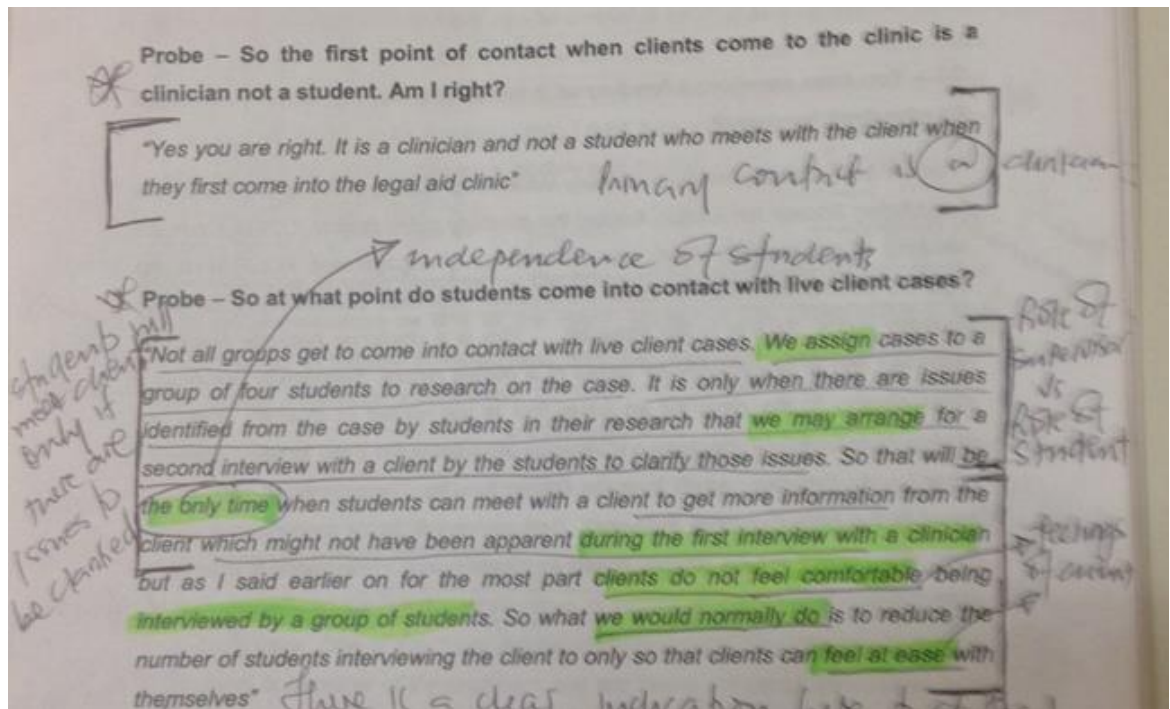
To build concepts from the transcribed interview scripts as textual data sources, the researcher opened text by exposing the meaning; the idea and the research participants' thoughts in it. This involved the examination of the interview transcripts for salient categories. Open coding was used here to examine the raw qualitative data through assigning codes and labels to it (Strauss and Corbin, 1990; 1998). The script was unpacked. The key in labelling concepts based on certain properties and dimensions and then developing them through a theoretical framework, lay in a very careful analysis of descriptions of what research participants said. The first step in the qualitative data analysis involved going through the data by breaking it down into pieces to examine closely the relations, similarities and dissimilarities. Different parts of the interview scripts were marked with appropriate labels or codes to identify them for further analysis. The researcher read through the scripts, reacted to the ideas, paused, thought about the ideas and subsequently identified some of them as significant. This process marked the beginning of an analytic process towards building a storyline concerning clinical legal education in Zimbabwe. Figure 5 is a screenshot of a hard copy of an interview transcript showing the initial step taken by the researcher to begin the analysis of data by using pen and paper to code.

Figure 5 Using pen to manually code an interview transcript



The transcript in figure 5 by research participant RP1 was firstly read from start to finish without coding. Open coding only started after the interview transcript was read for the second time. This time, the researcher read the text carefully; used a pen to circle data he thought were key terms and jotted down codes on the hard copy of the interview transcript. As can be seen in figure 5 short notes of what these codes were is written beside each circle. The following is an example of initial open coding list from figure 5 above: 'Employability'; 'Competition'; 'Reluctance'; 'Supervision'; 'Other core modules'; 'Time constraints'; 'Clinical component' and 'Lawyering skills'. These codes formed the start of open coding which the researcher used to mark up the rest of the interview transcript and other similar data from other interview transcripts. Using marginal notations on the side of each hard copy of the transcribed interviews, remarks and comments were written to code many large chunks of data from the transcripts as illustrated below in figure 6.

Figure 6 Marginal notations on the sides of an interview script



As can be seen from figure 6, large chunks of data were bracketed to allow the transition from merely being descriptive to being analytic. The researcher began to see the transition of codes from being essentially descriptive and summarising the perceptions of research participants to being analytic as they took the form of marginal remarks. A green highlighter was used to identify keywords that indicate the role of the supervisor in the Zimbabwean clinic, for example. Key phrases such as 'we assign'; 'we may arrange'; 'the only time'; and 'we would normally' indicate that the interviewing of clinic clients at Case A, is a preserve of the clinician and not the student. Students are only assigned tasks after the live-client has been first seen by the clinician and it is only when further enquiries are necessary that the students would see the client. The implication here is that where there are no gaps from the initial interview between the clinic supervisor and the live-client, the students assigned to deal with that case would normally have no opportunity to see that client from the start of the case to its completion.

The highlighted phrase, 'clients do not feel comfortable being interviewed by a group of students' and 'feel at ease' refer to the perceived feelings of clients when being interviewed by students which could be the reason why the supervisor would take up client interviews themselves. These phrases suggest therefore that part of the excerpt in figure 6 is about the reasons why the supervisor has a different role to that of the students

in handling live client cases in the legal aid clinic. The marginal notes on each side of the hard copy came in handy in the latter stages of the data analysis when the researcher started thinking about how his codes fitted together. This type of initial line-by-line coding (Strauss and Corbin, 1990; 1998) using pen and paper enabled the researcher to show the richness and complexities of clinical legal education in Zimbabwe. Abstracting representations of ideas on clinical legal education in Zimbabwe as said by each of the research participants, allowed the researcher to group together similar information to aid a better understanding of the positive and negative aspects of clinical activity in Zimbabwe as illustrated below in figure 7.

Specific phrases underlined in Figure 7 represent a certain code. The researcher reviewed the phrases *“this has been a major issue with the Law Society of Zimbabwe as they felt that the calibre of legal graduates was not really at par with their expectations”* and then engaged in an internal monologue in which he asked himself certain questions: *what is happening here?; what do I see as going on here?; what do these codes mean and represent about the clinic in Zimbabwe?; what is the perception and viewpoint of the research participant with regards to clinical legal education in Zimbabwe?; what sort of status can I attribute to these codes?; are they important in generating a theory?; what insight do they bring into the research question?; what sort of interpretations can I deduct from these codes?; when and where were those words said?; how do research participants express themselves?; who said what words and why?; how much do they contribute to the generation of theory on clinical legal education in Zimbabwe?* By asking the ‘who’; ‘when’; ‘where’; ‘how’; ‘how much’ and ‘why’ questions, the researcher was already enhancing theoretical sensitivity through constant questioning of the data. Using the ‘w’ questions the researcher was able to bring out a lot of ideas from his data marking the first stage of his data analysis and laying a foundation for the generation of theory on clinical legal education in Zimbabwe. Another way that the researcher used to get to the sensitivity of his data was by analysing a word phrase or sentence (Strauss and Corbin, 1990; 1998) by picking out one word that seemed significant from the data and listing all the possible meanings and validating the meanings against the entire script.

As can be seen from the underlined voice of the research participants, *‘the calibre of the graduates’* emerged from the data as a concept. What is interesting here is that the concept came directly from the expression of the research participant instead of being constructed by the researcher. Such examples of wording that research participants used in the interviews are called ‘in vivo codes’ (Glaser and Strauss, 1967). The ‘in vivo codes’ were taken directly from the interview transcripts to ensure that concepts on clinical legal education in Zimbabwe stayed as close as possible to research participants’ own words

because they captured key elements of what the interviewees said as illustrated below in figure 7.

Figure 7 Enhancing theoretical sensitivity through line by line coding

Interviewer: Tell me in your own terms, your own view on how best to educate future competent and responsible lawyers.

Respondent: Well ... I would say I think as far as clinical legal education is concerned this has been a major issue with the Law Society of Zimbabwe as they felt that the calibre of legal graduates was not at par with their expectations. They felt that the law schools were concentrating more on the theoretical aspect of teaching the law and placing less emphasis on practical and clinical skills education. So, when this faculty was established from the outset there was a deliberate strategy to try to improve that aspect of legal training.

The underlined 'in vivo code' came directly from the words of the research participant

The code 'experiential learning' is a constructed concept from the words of the research participant as they articulate the importance of combining theory and the practice of law

In the conversation highlighted in figure 7, the researcher thought of the dataset as representing the combination of codes 'theory of legal knowledge' and the 'practice of law'. He labelled the data set as 'experiential learning'. This simply means the integration of legal education and professional skills in educating law students for entry into legal profession. The highlighted data was located and placed in a compartment of similar properties and dimensions. The highlighted labels and underlined codes in figure 7 summarise what the researcher visualised as he read through the data expressed by his research participants. The codes have a meaning with regards to clinical legal education in Zimbabwe. The process of coding in figure 7 was not based on any existing theory but on the meaning that emerged from the data as told by the research participants. The code 'experiential learning' was constructed by breaking down the data into distinct ideas that also allowed the researcher to decide the names of the code. The initial process of open coding involved a mental process that saw the researcher grouping similar things together in distinct clusters (Zerubavel, 1996) and separating different clusters from one another as he analysed his data. Figure 8 is an example of how the researcher engaged with lumping (Saldana, 2009) to expedient the coding of his data. The data excerpt in figure 8 is taken from a response by research participant RP2 to a question on whether they thought there were any other influential factors in the establishment and sustainability of the faculty's clinical programme.

Figure 8 Lumping the data for expediency

Interviewer: Are there any other influential factors which you feel we have not yet addressed in relation to the sustainability of your Legal Aid Clinic?

Respondent: This is a very important question that has always been asked and I think the great question we constantly ask ourselves here is that of sustainability. We ask ourselves ... what is going to happen to the clinic when the donor funding goes ... and this is a question that has been always been asked. The question is ... can the university sustain the clinic on its own. I think though that the university on its own ... we could not be able to sustain the clinical legal education. Now things have been much better with funding ... no matter where a client is we provide all the funding for that case. We can bring the client here for consultation or we go wherever the client is; consult; bring the cases to the clinic and have our students involved in litigating the cases. However, I am quite sure that **without that external funding there is going to be a bit of challenge** even where we have a deserving case. Some of the cases that go through the clinic are for ordinary people who do not work and cannot afford to pay lawyers even when there are merits in their cases. So sometimes such people only see justice when someone else is fighting their corner.

A single lumped code represents a completely bracketed speech

As can be noticed from figure 8, there is only one 'in vivo code' highlighted in grey that captures, summarises and represents the meaning of the 214-word interview transcript. This type of lumping is what one would call "a broad brush-stroke representation" called holistic coding (Saldana, 2013: 23). It was, however, also possible to split the data into smaller codes to enhance a deeper understanding of the meaning of the excerpt. Figure 9 is an illustration of how the researcher carved out numerous discrete codes from the same excerpt as in figure 8 through the process of splitting.

Figure 9 Splitting the data for islands of meaning

Interviewer: Are there any other influential factors which you feel we have not yet addressed in relation to the sustainability of your Legal Aid Clinic?

Respondent: This is a very important question that has always been asked and I think the great question we constantly ask ourselves here is that of sustainability. We ask ourselves ... what is going to happen to the clinic when the donor funding goes ... and this is a question that has been always been asked. The question is ... can the university sustain the clinic on its own. I think though that the university on its own ... we could not be able to sustain the clinical legal education. Now things have been much better with funding ... no matter where a client is we provide all the funding for that case. We can bring the client here for consultation or we go wherever the client is; consult; bring the cases to the clinic and have our students involved in litigating the cases. However, I am quite sure that without that external funding there is going to be a bit of challenge even where we have a deserving case. Some of the cases that go through the clinic are for ordinary people who do not work and cannot afford to pay lawyers even when there are merits in their cases. So sometimes such people only see justice when someone else is fighting their corner.

Underline
d codes
represent
different
islands of
meaning

As can be seen from figure 9, at least 10 more additional codes have now been created in addition to the previously sole 'in vivo code' in figure 8: 'without that external funding there is going to be a bit of challenge' to reflect a careful analysis of the data. The researcher does not state the numbers here as a way of suggesting that more is better or that less is more (Saldana, 2013) but to highlight that lumping was an expedient coding method which also allowed future detailed sub-coding of the data to take place. Splitting data as illustrated above in figure 9 was useful in generating a more nuanced analysis (Ibid) of the research participants' voices. Figure 10 is an example of how the researcher open coded a partial transcript of an interview using abstraction. Here, the researcher probed one of his research participants after the respondent had given a very brief response to a previously asked question on what they thought were the main influential factors in the establishment and sustainability of a clinical programme within a law school.

Figure 10 Abstracting concepts from data

Interviewer: (Probing). So, what are your experiences in terms of human resources in the operation of the legal aid clinic you teach at?

Respondent: There is need for a legal aid clinic to engage clinicians who have practised law so that at least when they take the students through the programme ... it becomes much easier for the smooth operation of the clinic. I know that universities are more interested in academics but ... you know they still need to engage personnel that know both parts of the law and the practice. I believe that the students will benefit a lot from that.

Introduction of a theme coded **staff retention**

Evolution of coding **academics**

Positive connotation in code **staff retention**

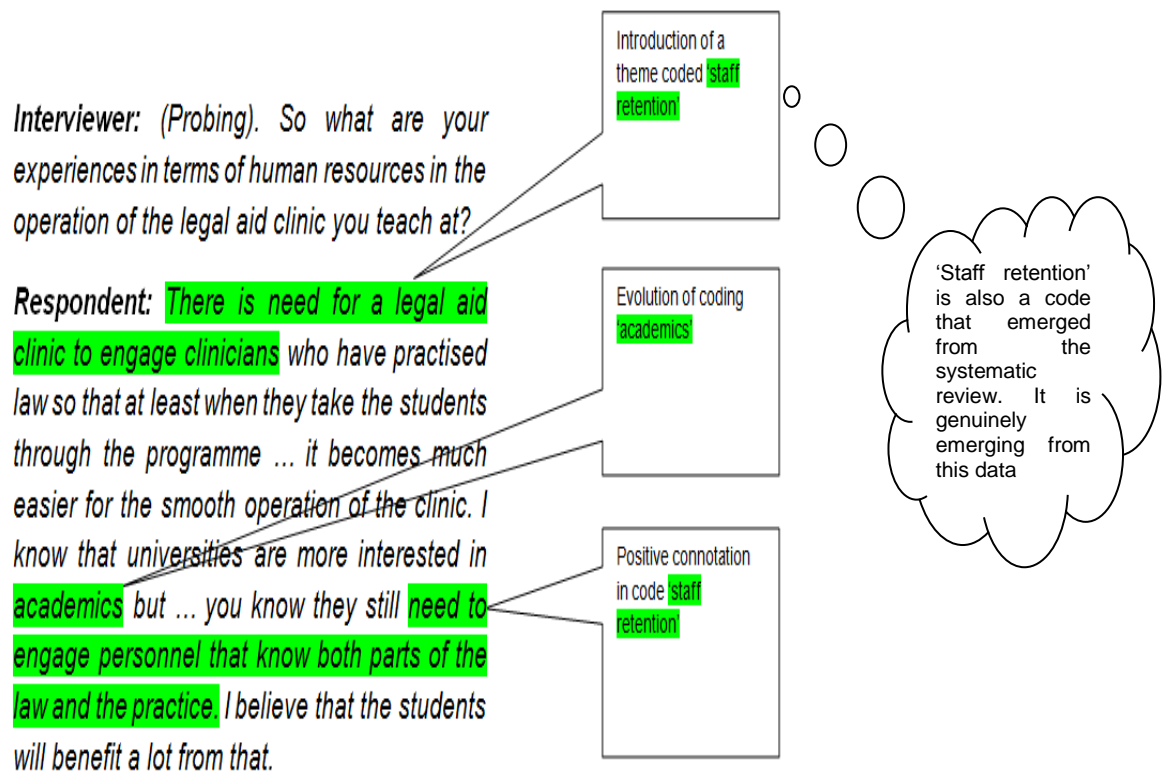
As can be seen from the conversation highlighted in green in figure 10, the researcher ran through his data and then grouped similar information around this notion of the need for universities to appoint qualified members of staff to work in the law clinic. The researcher used abstract label 'staff retention' to show that common characteristics and properties emerging from the data being analysed can be grouped together under a concept yet a further and closer analysis of the concept 'staff retention' also reveals that concepts can have different properties. It was possible to come up with different dimensions to this concept. As the researcher read what his research participants said about the retention of members of staff at Case A, he began to realise that the retention of staff members at the research site had different properties to it. Potentially, 'staff retention' could mean the actual appointment, by the university, of members of staff engaged purely for academic purposes and to teach core subjects at the faculty of law. On the other hand, the concept could be an expression of desire by the research participants to see the appointment, by the university, of a fulltime clinician engaged purely to teach at the clinic. The interpretation of this concept therefore meant different things to the researcher. In one dimension is the interpretation that if the university at Case A appointed members of staff purely to teach as academics at the faculty of law and maybe with an expectation of only providing fringe assistance to the operation of the clinic, then this would mean that such a policy could potentially inhibit the sustainability of such a programme since more attention would be given to non-clinical modules at the expense of the legal aid clinic. On the other hand, the appointment of members of staff purely as clinicians for the clinic could be a positive step in sustaining the clinical programme as attention is not divided between core and clinical modules. By analysing codes in this way, the researcher showed that a concept, such as for example, 'retention of staff' may have different properties on a continuum and as such it can be dimensionalised to have a different perspective on the generation of theory that is grounded in data.

7.3.1 The uncomfortable experience of reflexivity

As the researcher continued with his analysis, he suddenly recalled creating the same concept when the same grounded theory devices were used to analyse textual data from clinical scholarship. The interaction of codes created from the systematic review of literature discussed in Chapter 4 with the concepts generated directly from the data collected in Zimbabwe briefly created a temporary dilemma for the researcher. The concept '*staff retention*' was a code phrased by the researcher and not expressed directly by the research participant. Its creation was important in the analysis of data collected from Zimbabwe yet the researcher, for a moment feared that the similarity could potentially create an epistemological dilemma, particularly if it can be construed that the creation of such a concept was influenced by preconceived ideas generated from the previously reviewed literature.

The quick realisation of the similarities led the researcher to involuntarily step out of his ongoing analysis and engage in a brief self-talk. For a while, the researcher thought that he was unconsciously allowing his current analysis to be directed by preconceived ideas from literature he previously reviewed. For a moment, he recalled Glaser (2005: 141)'s assertion that grounded theory is a "general inductive method possessed by no discipline or theoretical perspective or data type" and wondered whether by coming up with similar concepts such as, for example, '*staff retention*' he was closing his mind to what actually was happening in the research field. As the researcher spontaneously popped in and out of his brain as he engaged in this sort of self-generated dialogue taking place privately in his mind, he momentarily doubted whether all the concepts he was creating during this current analysis were being independently generated from empirical data collected from Zimbabwe as shown below in figure 11 or were being influenced by concepts created from his systematic review of literature. The researcher did have a lot of control over the internal conversation and it all started with the awareness that prior conceptualisation of the field does not always result in researchers carrying preconceived ideas into research sites as he has argued in Chapters 4, 5 and 6.

Figure 11 The interaction of concepts from literature and fieldwork

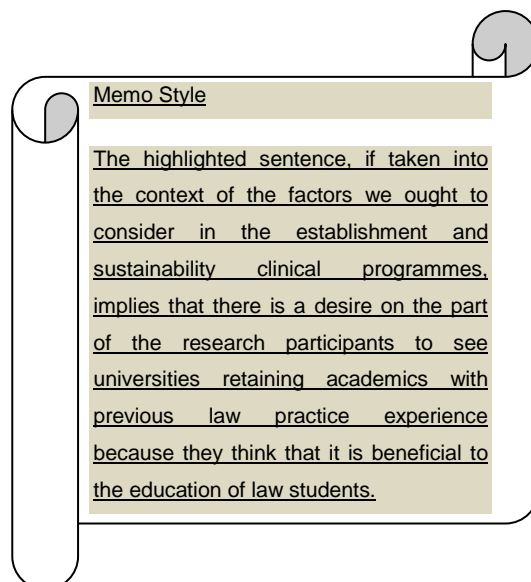


While line-by-line coding was useful in abstracting concepts, there were times when the researcher felt that open coding with a few words on the side of the script or in text was not enough to describe the entire concept of bringing together legal education and professional skills in educating law students. To develop a deeper meaning of the concept than expressed in the code, the researcher wrote notes against the concept. These notes are what grounded theorists call a 'memo' and the size of memos that the researcher created ranged from a paragraph to a full page and more. The following is an example of a memo created from an 'in vivo code' and developed by the researcher to generate a deeper meaning of a concept as expressed by research participant RP3 in figure 12.

Figure 12 Creating a memo from an excerpt

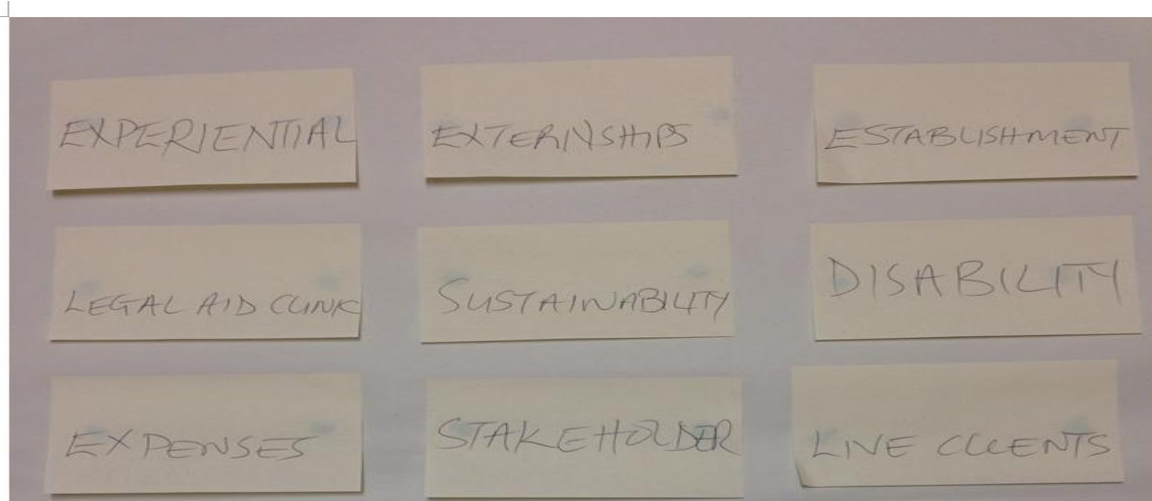
Interviewer: (Probing). So, what are your experiences in terms of human resources in the operation of the legal aid clinic you teach at?

Respondent: There is need for a legal aid clinic to engage clinicians who have practised law so that at least when they take the students through the programme ... it becomes much easier for the smooth operation of the clinic. **I know that universities are more interested in academics but ... you know they still need to engage personnel that know both parts of the law and the practice. I believe that the students will benefit a lot from that.**



The first thing that struck the researcher in open coding the conversation highlighted in blue in figure 12, was the emphasis on using clinical legal education to bridge the gap between the academic and practical skills in the education of law students. The highlighted conversation above resonated with the topic of the thesis. As the researcher continued to create codes and labels out of the data for the emergence of concepts on the establishment and sustainability of clinical programmes, there emerged several labels and codes scribbled on post-it notes as illustrated below in figure 13.

Figure 13 A screenshot of open does on post-it-notes on a flip chart sheet



As can be seen from figure 13, the researcher identified keywords and phrases from data and then noted each of them on coloured post-it notes. These were then stuck onto a blank A1 flip chart sheet. Having gone through all the interview scripts and carefully open

coded each transcript a brainstorm map emerged from the flip chart. The flip chart became a representation of a tree with outward branches of thought growing from chunks of labels and codes into useful concepts. Using a personal research journal document, he coded '*ZimClinicPerceptions*' the researcher, wrote memos throughout the open coding exercise to keep track of his self-dialogue, thoughts and ideas regarding the collection of data from Zimbabwe and its analysis. The undertaking of this task was painstaking particularly when the researcher constantly compared codes from each transcript using a constant comparative approach (Strauss and Corbin, 1990; 1998) to saturate data. Covered with post-it notes containing codes and labels were five A1 flip chart sheets; a process in which the researcher aimed at maintaining a close connection between the codes created and the interview transcripts (Strauss and Corbin 1990; 1998). To ensure validity of the open coding process, every time the researcher came across a new passage which appeared like data that he had already coded, he compared that with the other data he coded earlier, reread the codes and asked himself questions around whether he maintained consistence. By validating his codes using constant comparison, the researcher was already engaging in the development of a theoretical elaboration through an explanation of what was happening in the data. Table 9 shows an illustration of the coding process which holds codes and labels; properties and dimensions; and the examples of the wordings that research participants used in the interviews.

Table 12 Open coding property/dimensional matrix

Open codes/labels	Properties/dimensions	Wording used by research participants
Reform	Wanting to change Creating and embracing new ideas	<i>Try to improve that aspect of legal training</i> <i>Establish a practical and clinical skills training module</i>
Retention	Seeking experience Seeking skills	<i>Engage a very senior legal practitioner</i> <i>Tap into his vast skills as a legal practitioner</i>
Training	Seeking continuity and relevance	<i>An offer made to us to train one of staff members to specialise in disability rights</i>

As can be seen from table 12, not all codes were similar in wording to the language used by the research participants. Some abstract categories emerged. Some codes were very close to the research participants' account on the factors they thought were influential in the establishment and sustainability of their clinical programme and other codes were more conceptual and abstract than others.

Table 13 A sample of codes generated from interview transcripts

Open codes	Open codes	Open codes	Open codes	Open codes	Open codes	Open codes
Judiciary	Clinic	Theory	Director	Stakeholders	Sustainability	Expenses
Establishment	Law firms	Externships	Module	Complaints	Sceptics	OSISA
FOSI	Conditions	Experiential	Salary	Fear	Methodology	Cases

In table 13, codes and labels were grouped according to their common properties and dimensions and assigned a higher order label; a process in which the researcher marked the commencement of category development (Strauss and Corbin, 1998). From the above example of set of codes, the researcher grouped the concepts highlighted in yellow into a higher order category as illustrated below in figure 14.

Figure 14 Transforming codes into a higher order category

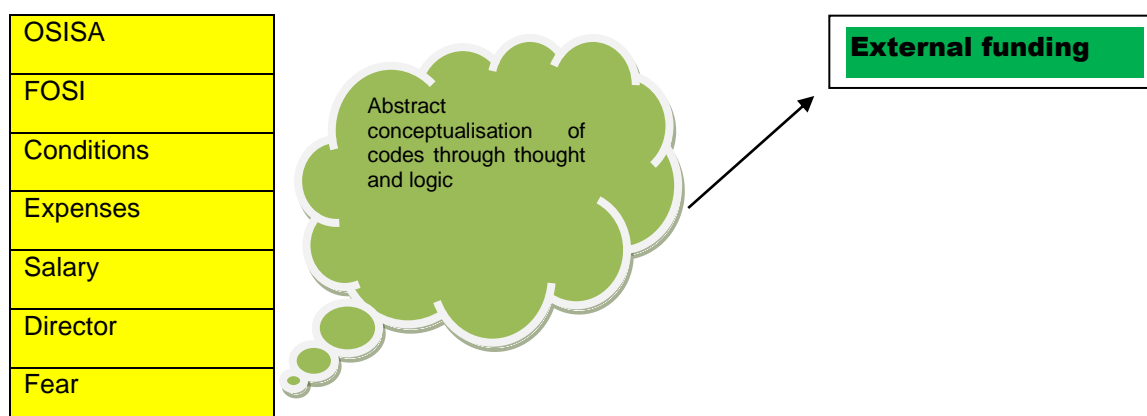


Figure 14 provides an overview of how the researcher, through constant comparison, grouped together concepts into a higher category he labelled '*External funding*'. It was through the comparison of code labels such as '*OSISA*'; '*FOSI*'; '*Conditions*'; '*Expenses*'; '*Salary*'; '*Director*'; '*Fear*' that the properties of the category '*External funding*' and their dimensional ranges were identified through a process of abstract conceptualisation of the codes. It was also through this process that the researcher began to establish the extent to which his research participants viewed the costs involved in running their law clinic as a crucial factor to consider in the establishment and sustainability of clinical programmes within law schools. The process of open coding line-by-line proved useful in building a detailed structured conceptual data model of analysis from raw data. The researcher read through the scripts repeatedly and found no newer concepts but the same codes and labels emerged. The researcher felt that by no longer finding any variations to the codes and concepts in the data, he had done enough to build an analytical and multi-dimensional framework for the next analysis phase of the data collected from Zimbabwe. This was the time to stop and accept the unavoidable process towards saturation. The researcher looked again through the interview transcripts for instances that represented the codes and continued looking until new information did not provide further insights into the codes. It was also at this point that the researcher then decided to stop open coding and move on to the next level of his data analysis which involved identifying relationships between sets of categories as illustrated below in figure 15.

Figure 15 A screenshot of categories on post-it notes on a flip chart sheet



7.4 Axial coding the open codes: theory building

The next stage of analysis of the data collected in Zimbabwe involved the reassembling of data and presenting them in a more linear fashion using axial coding, “an analytical tool devised to help analysts integrate structure and process” (Strauss and Corbin, 1998: 123). In the previous section of open coding the researcher focussed primarily on the interview transcripts to create labels, codes, concepts and higher order categories. The next stage of data analysis described in this section is crucial as it identified the factors that have been influential in the establishment and sustainability of the legal aid clinic in Case A. The interview transcripts were re-read to confirm that the concepts and categories created through open coding above accurately represented the research participants’ responses to the interview questions and most importantly, to explore how those concepts and categories related to each other. This is a process in which the researcher “reassembled data that were fractured during open coding” (Strauss and Corbin, 1998:124). By labelling the fractured data, the researcher identified relationships and connections among the open codes generated from the interview transcripts. Having gone through the stage of analysing data from the interview transcripts through open coding, the researcher grouped the codes and labels into related themes. The identification of the codes through the process of open coding described above was essential for the process of axial coding to

commence because the development of relational statements revolved “around the axis of a category” (Strauss and Corbin, 1998:125). The researcher looked at his five A1 flipchart sheets with post-it notes and eliminated duplicates. He then analysed the codes and labels to find similarities. Higher order categories generated from the qualitative analysis of the interview transcripts answered the “when, where, why, who, how and with what consequences” questions about a category (Strauss and Corbin, 1998: 125).

In examining the higher order categories and their relationships, the researcher constructed a loose conceptual framework which consisted of taking a category and identifying the conditions that gave rise to it, the context into which it was embedded; the action and strategy in which it was handled, managed and carried out and indeed the consequences of the action and/or strategies taken. In taking a full scale examination of the relationships between categories to necessitate the investigation of the relational factors (Strauss and Corbin, 1990), the researcher expanded out his knowledge of the categories in relation to clinical legal education in Zimbabwe. This section of the chapter therefore considers, among others, the conditions that caused and influenced the creation of the legal aid clinic in Case A; the actions and strategies taken by different stakeholders in the creation of the legal aid clinic; the socio-economic, cultural and political context in which the legal aid clinic operates in Zimbabwe; the intervening conditions either as barriers or facilitators to sustainability of the clinic and indeed the effects and consequences of operating a legal aid clinic in that jurisdiction. As a way of illustrating how the researcher developed a coding paradigm as a distinctive feature of axial coding phase, a set of the key categories generated from an analysis of data is given below in table 14 followed by an analysis of the data that allowed the emergence of themes on factors that have been influential in the establishment and sustainability of the legal aid clinic in Zimbabwe.

Table 14 A group of associated categories for thematic development

Causal conditions categories	Action and Strategy categories	Contextual categories	Facilitator intervening categories	Barrier intervening categories	Consequential categories
-The Law Society of Zimbabwe -Theory laden lectures -No emphasis on	-Deliberate strategy -Practical and clinical skills training module -Two semester module	-Clinical legal education in Zimbabwe -Socio-economic fabric of the society -Nature of	-Outreach programmes -Information exchange -Contact with NGOs and Ministries	-Future funding fears -Limited lifespan of the project -External funding	-Positive public interest litigation cases -Media and publicity -University

practical skills in the curriculum	-Partner of a law firm	state universities	-Cooperation	-Limitation to case selection	reputation
-Poor quality of law graduates	-Council Member for the Law Society of Zimbabwe	- Governmental funding	-Shared goals	-Purposeful and earmarked funding	-Accepted standards of clinic practice
-Rogue lawyers associated with quality of education	-Vice President of the Law Society of Zimbabwe	-Cultural dimensions	-Students feedback	-Disability rights	-
-Ill-trained and unethical legal practitioners	-Senior lawyer with 15 years of practical experience	-The emergence of 'small houses'	-Marrying theory and practice	-Academic work overload	Responsible and competent lawyers
-Lawyers do not subscribe to virtues of profession	-Lecture and/or seminar method type of teaching	-Family law cases from people with disabilities	-Reform acceptance	-Redundancy of post	-Lawyers for social justice
-	-Drafting legal and court documents	-Cultural competence	-University management support	-Reluctance to appoint	Ethical lawyers
Discourteous and disrespectful lawyers	-Previous legal training	-	-University intake policy	-Law practice regulations	-Co-existence amongst different law school
-Disability Rights and Law Schools Project	-An LLB degree without a clinical component	Independence in case selection	-Class sizes and organisation	-Rights of audience	-
-Open Society Initiative for Southern Africa funding	-Disability rights teaching	-Constitutional challenges	-Student law firms format	-Student court exposure	Partnership with friends of goodwill
-Foundation Open Society Institute funding	-Disability rights module	-Public interest lawyering		-Degree outline	-Mentoring other law schools in the region
	-Disability rights specialist training course	-Conflict of interest		-clinical pedagogy	-Fulltime clinical director
	-Community engagement	-Political landscape		- Clinic assessment	-
	-Legal aid clinic initiative	-Persons with mental disabilities			Operational costs
	-Clinic establishment	-The right to vote			-Funding limitations
		-The new Zimbabwean Constitution			

The following is a linear analysis of data that involved the use of a coding paradigm (Strauss and Corbin, 1990) as a tool that helped in the contextualisation of clinical legal education in Zimbabwe and in the process portraying a coding family consisting of causal conditions, the phenomenon, the contextual conditions, the intervening conditions, the actions and/or strategies taken and the resultant consequences thereof. The complaints by different stakeholders in the practice of law in Zimbabwe were the *causal conditions* that prompted the faculty of law at Case A to devise a strategy and consider the direction of experiential learning as a way of improving the quality of law graduates before they enter the legal profession as practising lawyers. The complaints by different stakeholders of the quality of law graduates contributed to the occurrence and development of the *phenomenon*, i.e. the introduction of clinical legal education at Case A. Clinical legal education is a model of teaching and learning that involves law students learning the theory of law not only through a lecture and/or seminar method but also through a process that involves the application of substantive law to real-life legal problems. Since the investigation of factors influencing the establishment and sustainability of clinical legal education in Zimbabwe was the main concern of this doctoral study, experiential learning, which involves the training of law students through a combination of theory and practice, was selected as the *central action/strategy*, in the coding paradigm.

The promotion or restriction of the possibilities of introducing clinical legal education at Case A depended upon the prevailing *contextual conditions* that impacted upon efforts to develop the phenomenon. As used in this doctoral study, context refers to the environmental factors such as the socio-economic, cultural and political fabric of the Zimbabwean society, time and duration. The researcher looked at his categories; wondered about clinical activity in the Zimbabwean context and asked himself: *would the relationships between the categories be different if, for example, the doctoral study was conducted in another university, in another setting and/or indeed in another country?* Furthermore: *would the relationships between these categories be different if the same study was conducted 83 years ago when Jerome Frank first mooted the idea of a clinical law school in 1933?* At the same time the cost implications of running a legal aid clinic would influence the way in which the research participants and the law faculty respond to clinical legal education at Case A. The interview transcripts repeatedly made references to the availability of funding from external and foreign organisations as a condition for the sustainability of the clinical programme at Case A. These references prompted the generation of themes that had to do with the availability of funding from friends of goodwill for the legal aid clinic as a *positive intervening condition*. The research participants also highlighted, on several occasions, the issue of financial expenses involved in the running of the legal aid clinic. This prompted the researcher to develop themes around cost

implications and he therefore thought of such running costs as a *negative intervening condition* creating barriers to the establishment and sustainability of clinical legal education in Zimbabwe before friends of goodwill were involved in funding the clinical programme. This approach to axial coding encouraged the exploration of actions and/or strategies such as the ones that were used by research participants in Zimbabwe when they received and acted upon complaints from the Law Society of Zimbabwe and the legal profession regarding the calibre of newly graduate lawyers. The *consequences* of having introduced a clinical component within the legal education curriculum would not only lead to a change in the quality of graduates and the attitudes of different stakeholders towards the teaching of law graduates as first envisaged but also to uncertainties with future funding of the legal aid clinic.

7.4.1 Causal condition related themes

Outlining the events that led to the introduction and development of clinical legal education at Case A is necessary as it is such events that laid the foundation for a full understanding of the factors that have been influential in the establishment and sustainability of the law school's clinical programme. In setting out the causes leading to the occurrence of the phenomena, research participant RP1 highlighted the complaints received by the institution from several stakeholders and stated:

"Well ... I would say I think as far as clinical legal education is concerned this has been a major issue with the Law Society of Zimbabwe as they felt that the calibre of legal graduates was not really at par with their expectations. They felt that the law schools were concentrating more on the theoretical aspect of teaching the law and placing less emphasis on practical and clinical skills education."

Research participant RP2 further elaborated on the stakeholder concerns over the performance of newly qualified lawyers:

"The debate has always been there ... you know ... amongst the legal profession, the university and the law society. You know ... whenever a rogue lawyer appears from somewhere people want to place the blame on universities to say that universities are not doing enough to train ethical lawyers ... Complaints have even come from the bench."

As can be seen, research participant RP2 had similar but slightly different information to Participant RP1 on concerns raised around the quality of newly qualified lawyers. The former stated that the people who were not happy with the calibre of the newly qualified

lawyers included not only the Law Society of Zimbabwe but also the legal profession and the judiciary too. This slightly different information is important because it shows that concerns on the performance of students coming out of universities into practice came from a wide spectrum of stakeholders and inevitably necessitated debates on how best was to educate future lawyers in Zimbabwe. Research participant RP3 concurred with other interviewees but in addition highlighted the possible limitations and difficulties a graduate whose learning has been theory-laden would face once in legal practice:

“The repercussion is that you end up having a graduate who has the content at the back of their mind but when you tell them to apply the law to the facts in practice they may then have difficulties. They may not really appreciate the practical aspect of the practice in real-life situations.”

The research participants picked up from the reaction of different stakeholders on the quality of law graduates leaving universities and entering practice. They were receptive to the complaints raised. They took a turn for change towards the education of their students to avoid further criticisms. They felt that the message from different stakeholders was clear enough as a causal event that ought to have led to the introduction of clinical legal education. The extracts above show that some educational cues were picked up from the concerns raised by different stakeholders. The question that remained was whether the faculty was going to deal appropriately with the concerns raised. According to the research participants the involvement and timing of foreign organisations external to the university played a significant role in prompting the broad-based curricular innovation and their comments revealed same views. They indicate that the introduction of a clinical component within the mainstream legal education curriculum would likely have not occurred without the involvement of friends of goodwill from abroad and their funding of a disability project at the institution. Research participant RP1 stated the fact that when the Open Society Initiative for Southern Africa (OSISA) and the Foundation Open Society’s Initiative (FOSI) *“came on board and said that they were going to assist us to establish a clinic and will provide the funding”* that was when the faculty could introduce the clinical programme. However, research participant RP3 commented that *“if it was not for the partnership that the university had with external funders, the university would not have had the clinic.”*

Research participants attribute the creation of the legal aid clinic at Case A to the availability of external funding from OSISA and FOSI. Describing how the legal aid clinic came into being at the institution, research participant RP1 said that *“the legal aid clinic came to us almost by accident. It was because of an offer made to us by OSISA and FOSI to train one of our staff members to specialise in disability rights.”* It was upon the

completion of the studies by the faculty member concerned that the faculty at case A was offered funding to establish a disability rights module which had three aspects. The first aspect involves the teaching of disability rights. The second aspect involves community engagement in which the faculty staff and students travel around the country discussing disability rights issues and raising awareness on such rights and encouraging the uplifting of people with disabilities. The third aspect involves the work handled by the legal aid clinic. Further, research participant RP1 stated that this was the genesis of the establishment and sustainability of clinical legal education at Case A, yet the respondent also recognised that even though colleagues at the faculty did realise the importance of a clinical component within the legal education curriculum *“the main issue has always been to do with funding because the university is not really funding this project.”* What the university did was to give the faculty of law an office space and allow fulltime members of the academic faculty to work at the clinic in addition to their normal teaching loads. Research participants commented on how universities sometimes struggle to fund innovative projects such as clinical legal education from their internal budgets and hence it becomes necessary to seek external funding from friends of goodwill. Several axial categories were therefore created by examining parts of the interviews such as the ones given above and the relationship between certain codes created through open coding. The researcher first considered the relational factors in relation to what caused the complaints and concluded that it was the quality of law graduates when they enter practice from law school. Themes that emerged from an exploration of causal conditions are presented below in table 15.

Table 15 Themes emerging from casual condition related categories

Themes emerging through axial coding	Categories
The Law Society of Zimbabwe’s concerns over the legal training of students	<ul style="list-style-type: none"> • The Law Society of Zimbabwe • Theory laden lectures • No emphasis on practical skills in the curriculum • Poor quality of law graduates
Different stakeholder attitudes towards the calibre of law graduates	<ul style="list-style-type: none"> • Rogue lawyers and educational quality • Ill-trained and unethical lawyers • Lawyers not subscribing to virtues of profession • Discourteous and disrespectful lawyers
The grand entrance of friends of goodwill into the scene	<ul style="list-style-type: none"> • Disability Rights and Law Schools Project • Open Society Initiative for Southern Africa funding • Foundation Open Society Institute funding

7.4.2 Action and strategy related themes

By using axial coding to locate the properties and dimensions on a continuum, it became apparent that the research participants acted and used focused strategies to address concerns raised by the legal profession, the bench and the law society. In 2012, following on from being receptive to concerns raised by different stakeholders over the quality law graduates entering the legal profession and after OSISA and FOSI released funding for the creation of the Disability Rights and Law Schools Project, members of staff at Case A came to a realisation that the introduction of experiential learning would make a meaningful difference in the way law students practice law on completion of their university studies. Research participant RP1 highlighted the issue of experiential learning as a purposeful, goal oriented activity that the institution, faculty of law and other stakeholders performed in response to the need for clinical legal education to change the fate of legal training at Case A:

“So when this faculty was established from the outset there was a deliberate strategy to try to improve that aspect of legal training. So, what we initially did was to establish a practical and clinical skills training module. Instead of making it a one semester module as is the norm at [...], we decided to make it a two-semester module.”

While research participants appreciated the opportunity for introducing experiential learning, research participant RP1 conceded that the academic value of clinical legal education at the institution would have been limited by lack of experience and so it was decided early on that the faculty would engage *“a very senior legal practitioner [...]. He is one of the partners at a law firm in town called [...]. He served as a Council Member for the Law Society of Zimbabwe and is currently the Vice President of the Law Society of Zimbabwe. So, we wanted to tap into his vast skills as a legal practitioner with 15 years in practice.”* This action was taken to improve the quality of clinical training at the institution. No one interviewed questioned experiential learning as a strategy. Unsurprisingly, all the research participants interviewed stressed the importance of experiential learning as a strategy to improve the quality of university graduates who eventually enter practice after going through legal training at the institution. This is evident in the elaborations made by research participant RP2 when he noted that *“a legal aid clinic is a critical aspect of training.”* Corroborating this assertion, research participant RP3 remarked that there is a need to *“give students that aspect of practising law and seeing law in practice as they hone their skills.”*

Perhaps seeing the benefits of clinical legal education in the same vein as other interviewees, research participant RP4 stated thus:

“We need to impart the practical skills to the student lawyer via their participation in the legal aid clinic so that we expose them to the working environment ... the practicalities of law. So, there will always be a need to integrate theory and practice. In the process, we need to develop our students’ lawyering skills and they should be able to solve practical problems. In other words, we have to marry the theory they have learned to practice.”

Strengthening the call for change towards the maximisation of the benefits of clinical legal education as demonstrated in the above interview excerpt example by research participant RP4 and seemingly advocating for a complete overhaul of the education of law students in Zimbabwe, research participant RP5 used his own personal experience as a student at another university to raise strong concerns about lack of a clinical component legal education:

“From my own practical experience as a practising lawyer and academic, the idea of teaching students through a lecture/seminar method is not helpful at all. Let me illustrate my point by a way of an example of a personal nature. I underwent legal training at the [...] myself and even the experience of those students that are graduating from that institution ... is that it is possible to graduate from that university with a law degree but not knowing what a defence outline is and how to draft a defence outline. I must be honest with you. I struggled with drafting court documents myself in my first year of legal practice here in [...] in 2008.”

The data analysis revealed that the disability rights project initiative by the faculty of law at Case A, some 7 years after the establishment of the law faculty was a relevant aspect of strategizing towards a clinical programme within the law school. The institution’s receipt of funding from OSISA for the implementation of a Disability Rights and Law Schools Project in Southern Africa had a significant impact on the development of the clinic even though the idea of a clinical programme was first mooted in 2010. Research participant RP1 elaborated on this when he remarked that they *“started thinking about a legal aid clinic in 2010 when one of our staff members was sent out to South Africa for his Master’s Degree in Disability studies.”* Research participants RP1 went on to say that it was in 2011 that the faculty *“actually started putting together the proposals for its implementation.”* *“In 2012 that’s when we established the Disability Rights Project which includes the legal aid clinic”* (research participant RP1). Research participant RP2 had similar but slightly different information. In outlining the actions and strategies taken by the law faculty and the project sponsors, he stated that the arrangement from the onset had always been that OSISA will

fund the project in the form of *“infrastructure, computers and everything, the office equipment and everything.”*

It is reported that friends of goodwill from FOSI are *“the one[s] who are funding the clinic”* (research participant RP2). Research participant RP5, in addition to the narration given on the action and strategies taken as part of the project, stated that the funders sought that the faculty *“introduce a standalone module on disability rights”* and *“to engage the community through community engagement activities.”* It was this strategy, amongst others, that *“saw the beginning of an effective and practical legal aid clinic at the faculty of law here at the [...]”* However, in alluding to the significance of external funding, as a crucial factor in the establishment of the clinical programme at Case A, research participant RP3 stressed the point that even the funding from OSISA made the implementation of the clinical programme at the institution much easier because *“[t]he university was not really eager to give the nod to that clinic.”*

The researcher checked for categories that related to each other in relation to the introduction of experiential learning as an action and/or strategy research participants and the faculty took as a way of responding to the complaints. The idea of experiential learning as an action taken by the research participants and the institution is a concept the researcher created during open coding and by considering the relationship between action-related categories. The resultant themes are illustrated below in table 16.

Table 16 Themes emerging from action and strategy related categories

Themes emerging through axial coding	Categories
Taking a turn towards experiential learning	<ul style="list-style-type: none"> • Deliberate strategy • Practical and clinical skills training module • Two semester module
Tapping into the experience of senior legal practitioners	<ul style="list-style-type: none"> • Partner of a law firm • Council Member for the Law Society of Zimbabwe • Vice President of the Law Society of Zimbabwe • Senior lawyer with 15 years of practical experience
Taking a cue from previous and personal experiences	<ul style="list-style-type: none"> • Lecture and/or seminar method type of teaching • Drafting legal and court documents • Previous legal training • An LL.B degree without a clinical component
The implementation of the Disability Rights and Law Schools Project in Southern Africa	<ul style="list-style-type: none"> • Disability rights teaching • Disability rights module • Disability rights specialist training

	course <ul style="list-style-type: none"> • Community engagement • Legal aid clinic initiative • Clinic establishment
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7.4.3 Contextual related themes

Distinguishing contextual factors from causal condition factors was by no means an easy task. Contextual factors that emerged from the data were a set of conditions too that also influenced the establishment and sustainability of clinical legal education at Case A. However, factors that emerged as causal conditions were active variables whereas the contextual factors referred to in this section were background variables. Crucial to being strategic and acting was the importance too of considering the context from which experiential learning was established in the form of clinical legal education. Here, the researcher looked for categories that related to each other in terms of partnerships, time, location and the prevailing socio-economic, cultural and political environment under which a clinical programme was introduced at Case A.

While the research participants were keen to see a change of direction towards the overall process of training future lawyers at the institution and the ultimate introduction of a clinical component in their teaching of substantive law, they found this process challenging because of the cultural setting in the jurisdiction. Research participant RP4's response to the question of whether culture had any impact on the operation of the clinic was that *"culture plays a big part when dealing with sensitive issues."* Research participant RP1 added that because of the socio-economic conditions currently prevailing in Zimbabwe, *"people do talk freely because by the time they get here they are already in a desperate situation."* The interviewee went on to attribute the desperate situation to shift in culture in which extra marital affairs have become common in Zimbabwe and exacerbated by the socio-economic meltdown in the jurisdiction. Research participant RP1 alluded to the fact that some single women in the jurisdiction have resorted to a culture where they are now prepared to be 'second wives' to married men so long as they get to be looked after by the latter by whatever means:

"This so called 'small house' is new. This has now become a culture among Zimbabweans. You see a lot of men now having a side girlfriend because of the economic problems of the country. This has become a major challenge in our country and many

cases we are getting through the legal aid clinic are of this nature where a married woman would come seeking advice because the husband has a 'small house' somewhere else."

The interviewee noted that married men would spend money with 'small houses' at the expense of their families and the legal aid clinic would see the neglected party coming to the clinic seeking legal advice. Ironically some of the clinic's clients who attend the legal aid clinic for advice are those that come directly from the 'small houses' because after they get impregnated and because there is pressure from the perpetrators' wives, the men responsible would eventually neglect the 'small house' and their offspring. However, there is a caveat to the family law cases the clinic handles. Research participant RP1 reported that as funding is strictly earmarked for disability issues, the clinic only deals with the *"family law cases where the other party has a disability or has developed a disability."*

In elaborating on the challenges of operating a clinic at a state university that is not only funded by the government but is also governed through policies that are set out by the state, research participant RP5 stated that the legal aid clinic was *"actually within a state university and so it is apparent that it will not handle cases that clash directly with the university and government. Otherwise we may end up having a conflict."*

Political interference was an area of concern and a barrier to clinic work. An example of public interest lawyering case was given by research participant RP5 when he cited a constitutional issue of political participation by people with disabilities:

"The new Zimbabwean Constitution says all persons with mental disabilities in detention cannot be registered voters. So [if] we want to raise this with the Constitutional Court of Zimbabwe and challenge it through our legal aid clinic there is no doubt that the university authorities would come back to us and say ... 'are you saying that the crafters of the Constitution did not know what they were doing when they crafted the Constitution and you want an order mandating the State to change the Constitutional provision and allow these persons to vote?' So many questions will linger and the university authorities will question our stance."

In addition to the interference demonstrated in the above interview excerpt, research participant RP5 went further and attributed the lack of independence in how the clinic operate and deals with public interest litigation to the influence by the government over universities in Zimbabwe.

"The university authorities will not allow a legal aid clinic from within its institution to expose the government. There is no independence in the practice of law from the legal aid

clinic's perspective because you do not want to be clashing with the government. In litigation, you might as well avoid a head on with the State" (research participant RP5).

The research participants noted the context in which clinical legal education was first established in Case A. One interviewee viewed state interference as inadvertently excluding the independence of the clinic and clinicians who internalise such barriers and lose confidence in their ability to undertake cases of a public interest litigation nature. They referred to the prevailing cultural setting and the socio-economic and political fabric of the jurisdiction and highlighted certain environmental factors as having influenced the creation and sustainability of clinical legal education in Zimbabwe. The further exploration and refinement of categories in finding relationships between them resulted in the emergence of the following themes as illustrated below in table 17.

Table 17 Themes emerging from contextual related categories

Themes emerging through axial coding	Categories
Long term socio-economic pressures on the operation of the clinic	<ul style="list-style-type: none"> • Clinical legal education in Zimbabwe • Socio- economic fabric of the society • Nature of state universities • Governmental funding
The operationalisation of a clinic in light of cultural sensitivity	<ul style="list-style-type: none"> • Cultural dimensions • The emergence of 'small houses' • Family law cases from people with disabilities • Cultural competence
Political meddling and state control of universities	<ul style="list-style-type: none"> • Independence in case selection • Constitutional challenges • Public interest lawyering • Conflict of interest • Political landscape • Persons with mental disabilities • The right to vote • The new Zimbabwean Constitution

7.4.4 Facilitator intervening condition related themes

Not dissimilar to context, intervening condition factors were those categories that the researcher looked at and identified as elements that made the establishment and sustainability of clinical legal education at Case A become possible. Research participants intimated conditions that positively influenced the development of clinical legal education at the institution. Some positive factors were internally contextualised. Others were externally contextualised. The availability of external funding surfaced again during the

analysis of data in this section and grew throughout the analysis to be noted as critical and contextual to our understanding of clinical legal education in Zimbabwe.

What follows in this section are data excerpts relative to research participants' views and experiences in delivering experiential learning in the overall education of law students at Case A. When asked about what they thought were the key factors in the establishment and sustainability of clinical programmes within law schools, research participants' responses were varied but ultimately all alluded to the availability of external funding from OSISA and FOSI as a critical but positive factor. Research participant RP1 thought that: *"the key driving factor is the need to improve the students' clinical skills. Then another issue is also driven by the need to give back to our host community. So, there is a community engagement motivation as well and this is also part of ... you know the wider university's drive that every faculty should find a way in which it sorts of interact with its host community to give something back."* For others *"the human capital is a crucial factor to consider in the establishment and sustainability of clinical programmes"* (research participant RP3). For research participant RP4, the key factor was the ability of the law school to integrate the clinical component within the mainstream legal curriculum through a sustained *"focus on practical knowledge married to what they [students] might have learnt."* In addition to that, *"the consciousness and the awareness that the student must serve the community must be part of that"* (research participant RP4). Others felt that student enthusiasm was a key factor in the creation of the clinic and still is in sustaining it as they have *"witnessed a growth in student interest"* in the clinical programme (research participant RP5).

Research participants also disclosed a range of professional relationships within and outside of the university. They reported on collaboration within the faculty, the university management, the legal profession, the bench and various non-governmental organisations and indeed the community. The efforts in collaboration and partnership creation are indelibly linked to the current availability of external funding from friends of goodwill. The research participants all relayed views about the need for a strong positive professional partnership developed through a common passion for clinical legal education. Research participant RP5 elaborated on the role of collaboration when they stated:

"I had the advantage of having shared some experiences with the Washington College of Law in the United States of America. I also had the opportunity to visit the University of Colombia in Colombia and then again I visited the National University of La Plata in Argentina. These Southern American universities have full blown clinical legal education modules for their students. So, we had to borrow the best practice and the best contents

of their programmes from these international universities and then came back to Zimbabwe and applied their context to our own legal aid clinic.”

The interview transcripts were flush with research participants’ expressions of the success of their clinical programme. They attributed the success of the clinical programme to the ability of the institution and the faculty in maintaining a very low student to teacher ratio. When asked about how the clinic selects students for the clinic, research participant RP2 responded thus:

“We have the benefit of having small numbers across the faculty. We have an average intake of 20 students per year per semester. We have two semesters. Each year we take Level 1.1 and Level 1.2 students meaning that we have two intakes per year averaging about 20 students. So, in the final year we have Level 5.1 coming in and Level 5.2 on their way out of the university after completion of their studies but each group is 20. Each group spends a semester in the clinic ... so we have a benefit of small numbers which make it easier to integrate each group into the clinic for the semester. With big numbers, it would not work for us. It would require the devising of a method of selecting them to participate in the clinic to avoid the possibility of dealing with a huge teacher-student ratio.”

The type and scope of methodologies employed by the faculty in delivering the clinical component also factored into research participants’ disclosures. Research participant RP5 elaborated on this and stated that: *“[t]he clinical work is compulsory for 5.1s. So, the fifth-years in semester 1... it is compulsory for them to do clinical work.”* The disability rights module research participant RP5 teaches on *“is an elective in the law faculty and is offered at level 3 of the degree programme”* (research participant RP5). On elaborating the issue of selecting students for the clinic, research participant RP2 reported that:

“[I]n the clinical legal education component outline itself, we also involve and incorporate the concrete principles and rights of people with disabilities such that those students who did not chose the module at faculty level as an elective they can also have an opportunity to apply the principles of the module to their clinical work. The elective is offered at Levels 3.1 and 3.2, and then at levels 5.1 and 5.2 but not at level 4 because the rest of the fourth-years are away on work-related learning programme ... they spend six months at the government offices and then six months at the law firms. So, the clinic is compulsory and as such we do not choose students for the clinical work.”

Depending on structure and funding, research participants play a crucial role in maintaining and navigating logistic and tensions in organising their clinic students into small ‘law firms’ as research participant RP5 highlighted: *“[o]nce we have students in the clinic we can then split them into say four groups of 5. In 5.1 they are split into groups and*

they do different caseload in each group. So, we have group one, two, three and four. We call them groups and give them a timetable for specific areas of work and time in the clinic.” The same interviewee however, raised concerns about clinic space within the institution when he reported that:

“We do not have enough space to accommodate all our students at once. We cannot have 20 or so students at the clinic at the same time because the premises are so small ... so each group has its own time of attending and doing work at the clinic for want of space. The clinic is so small and it can only accommodate five students at a time as you have seen it” (research participant RP5).

Perhaps not surprisingly, such pressures may provide an explanation as to why other academic staff members at the law faculty initially questioned the essence of introducing the clinic at the institution. Research participant RP2 recalls that when the idea of setting up a clinic was muted in 2010/2011 there were some in the faculty who would ask why bother with a legal aid clinic and even went on to opine that students *“will learn when they leave university. They will learn on the job.”*

As the researcher continued to conduct his analysis in this manner, the axial coding process provided a more directed approach with which the researcher looked at his data to make sure that he had identified all the concepts from the responses given by his research participants particularly when considering categories relating to the conditions needed to be able to implement, create and sustain a clinical programme. Emerging from the exploration of the relationship between these different categories were the following themes illustrated below in table 18.

Table 18 Themes emerging from facilitator intervening condition categories

Themes emerging through axial coding	Categories
Stakeholder partnerships	<ul style="list-style-type: none"> • Outreach programmes • Information exchange • Contact with NGOs and Ministries
Internal and external collaboration for clinical work	<ul style="list-style-type: none"> • Cooperation • Shared goals • Students feedback
Generating clinic interest in law students	<ul style="list-style-type: none"> • Student enthusiasm • Student awareness • Student participation
Importing and incorporating best clinical practice	<ul style="list-style-type: none"> • Law schools abroad • Conference attendance • Shared experience
Integration of a clinical component within the	<ul style="list-style-type: none"> • Marrying theory and practice

curriculum	<ul style="list-style-type: none"> • Reform acceptance • University management support
The low student to faculty ratio	<ul style="list-style-type: none"> • University intake policy • Class sizes and organisation • Student law firms format

7.4.5 Barrier intervening condition related themes

Whilst it must be appreciated that the clinical legal education initiative through the establishment of the Disability Rights and Law Schools Project at Case A in 2012 augured well for the introduction of clinical legal education particularly after complaints from different stakeholders on the quality of legal practitioners the pitfalls of clinical programmes sometime outweigh the rewards. Research participant RP2 made it clear that the project was *“a special project financed by OSISA and FOSI and to be honest these organisations have their own areas of focus and they would expect clinics they fund to carry out those projects that they have an interest in and are funding.”* The funding of the legal aid clinic at Case A comes from the purses of the two organisations and hence it is ring-fenced. Research participant RP1 confirms this when they stated that:

“FOSI fund the disability rights project. OSISA funds the teaching of the disability rights and the community engagement. FOSI funds the legal aid clinic activities which cover the litigation expenses of issues only related to disability rights. So, this is the tricky bit ... This is a challenge because funding is restricted and is strategically for cases of a certain nature. Supposedly, we have a client coming to the clinic for an issue that is not related to disability rights, we obviously cannot take the case on.”

Research participants do fear that such an arrangement limit what the clinic can do in so far as delivering a service to the community is concerned and indeed in using the students to meet an unmet need. The clinic is run by members of staff who already have full teaching loads elsewhere outside the clinic as research participant RP1 has stated: *“the other challenge we are facing is that I am a fulltime lecturer who is teaching on two other modules outside the clinic and that is a major constraint. It is difficult to have enough time to dedicate to the legal aid clinic.”* Compounding the limitation to case selection because of the ring-fenced funding and the non-existence of a fulltime clinical director is this fear too of the uncertainty to the availability of future clinic funding when the current funding stream dries up as research participant RP1 pointed out: *“having a fulltime legal aid clinic director would be critical but it’s a bit tricky because this funding from OSISA and FOSI is not going to be there forever. So, the fear is that what if the university engages someone*

on a fulltime basis what would happen to the post in the event of this funding coming to an end ... how is the project going to be sustained?"

As an additional negative intervening condition, the lack of a student practice rule is a factor providing further depth and dimensionality to some of the themes generated from connected categories. The following quotation from research participant RP3 present background and context to this dilemma: *"[t]he other thing to consider is that law here in Zimbabwe is highly regulated. The regulating authorities were not so convinced that the faculty had the necessary capacity to run the legal aid clinic."* Research participant RP2 pointed out the same problem when he stated that: *"in terms of our legislative regime law students cannot appear in court just like students in the United States. There is lack of a student practice rule in which our students can take matters to court themselves."* Research participant RP5 also commentated on the issue and stated that it was *"very unfortunate that law students in Zimbabwe cannot present clients before the courts of law."* Probed further by the interviewer on whether the interviewee was referring to the lack of the student practice rules in Zimbabwe, research participant RP5 responded by clearly articulating a struggle between the desire to see students gaining court exposure in the legal service delivery and the inhibiting factor of applying the rights of audience rules to legal practice in Zimbabwe:

"I have heard that students in the United States of America can actually represent clients in courts whereas here in Zimbabwe the law does not allow our students to represent students at court. The law here clearly states that only a practising lawyer with a recognised and current practising certificate issued by the Law Society of Zimbabwe can practice law in Zimbabwe."

Although generally subscribing to the benefits that the clinical programme is offering to their students and the community in general, it was also apparent that they had concerns over the lack of credit ascribed to the clinic work:

"So the clinical programme is not optional ... it is compulsory. However, the challenge now is in terms of credit. Students do not get credit for the actual work they do in the clinic even though what they do there is compulsory. They only get credit for the practical and clinical skills training module they do in 3.1 and 3.2 as preparation for the work-related learning programme in their fourth-year and to prepare them for the clinic when they return in their 5.1 and 5.2" (research participant RP5).

Instead research participants would want to see the faculty turning the law clinic experience into a credit-bearing academic exercise. Research participant RP5 believes that if the clinic programme changes into a credit module then: *"... that will be another*

motivation for the students to engage effectively with the legal aid clinic and to give maximum effort ... particularly when they know that at least they are working towards at some credit of some sort."

The resultant themes created from exploring the relationship between negative intervening categories are illustrated below in table 19.

Table 19 Themes emerging from intervening condition related categories

Themes emerging through axial coding	Categories
The future resourcing of the clinic remains uncertain	<ul style="list-style-type: none"> • Future funding fears • Limited lifespan of the project • External funding
Grappling with a ring-fenced funding regime	<ul style="list-style-type: none"> • Limitation to case selection • Purposeful and earmarked funding • Disability rights
No agenda yet for a fulltime clinical director	<ul style="list-style-type: none"> • Academic work overload • Redundancy of post • Reluctance to appoint
Non-existence of a student practice rule	<ul style="list-style-type: none"> • Law practice regulations • Rights of audience • Student court exposure
The lack of credit for the clinic module	<ul style="list-style-type: none"> • Degree outline • Clinical pedagogy • Clinic assessment

7.4.6 Consequential related themes

Having so far examined categories to answer the questions: *what, when, where, why* and *how*, it was time to look at the question: *with what consequences?* (Strauss and Corbin, 1998). Here, the researcher looked again at the strategy and action taken by the research participants in responding to the causal condition which led to the introduction of clinical legal education in their institution of higher learning. A primary consequence of the involvement of OSISA and FOSI and their ultimate funding of the clinic through the Disability Rights and Law Schools project was the image creation of the institution. Publicity of the good work the law clinic does for the community has been cited as a factor behind that image building and flag raising: *"[t]here has been media coverage of the good work that our legal aid clinic did for the community sometime back. The positive outcome of that piece of work we did was reported in the papers. Because of that we were commended by our university leadership of the good work that we did for the community.*

They appreciated the fact that not only did we do well for the community in that case but we also raised high the flag of the institution and added to its reputation as a university. So, there was a lot of good publicity on the part of the university and that has enabled us as a clinic to grow and be able to sustain our clinic” (research participant RP5).

The consequence of introducing clinical legal education in training law students to become responsible and competent legal practitioners has been welcomed not only by the research participants but by the law firms where graduate students end up practising law. Research participant RP1 reported on the feedback received from law firms about the change in quality of graduates:

“Statistics after graduation show that our students engaged by major law firms perform brilliantly. Recently we have had an open day in Harare organised by the Law Society of Zimbabwe and someone from Scanlen and Holderness Law Firm praised us for the performance of one of our former graduates who the firm hired. The law firm attributed this brilliancy to the work-related learning project.”

Once the legal aid clinic started interfacing with OSISA and FOSI, the faculty realised that they were also presented with an opportunity to network with clinicians from abroad, something that would not have been possible in the past had it not been of the existence of a legal aid clinic. Research participant RP1 remarked that:

“There have been suggestions from our clinical partners from abroad on how to integrate a clinical component and most of those suggestions have been coming from people in the United States. We have had Professor Robert Dinerstein from the United States and Marguerite Angelari who is American but works for OSISA in Hungary.”

However, the design logic behind the project had been that of virtually offering legal advice and assistance to persons with disabilities in Zimbabwe. Yet research participant RP5 highlighted the opportunities the project had given to clinicians: *“from my own experience of having attended the training of trainers’ workshops in India, Colombia, Argentina and Malawi, the experience put me somewhere with regards to clinical legal education and its future innovations.”*

One interviewee stressed the importance of partnering other law schools as a way of sharing ideas and developing clinical relationships in the region. *“In the region yes we have clinical partners. We are a member of CO-ORD which I told you about earlier. We have the Centre for Human Rights at the University of Pretoria which is like the nerve centre for this programme. So, from time to time we meet with other law schools. Some law schools are in the process of developing their legal aid clinics. Some already have*

established legal aid clinics such as the University of Namibia. So, we occasionally meet to discuss how best to improve our legal aid clinics” (research participant RP1). This concurs with research participant RP5’s earlier assertion that travelling abroad and visiting other law schools had assisted their career development.

Certain law firms that had raised concerns about the poor quality of graduates entering the legal profession noted the change in quality of students entering practice of law after having gone through the clinic as part of their legal training. On the other hand, employability rates of graduates have also increased because of the action the institution took in introducing experiential learning. Research participant RP2 has noted from a study they undertook that upon graduation, their students *“are selling like hot cakes. We have done a study on their employment prospects and the statics are much better. We are almost at 100% employment rate of our students soon after they leave law school especially in such a hostile environment where jobs are so scarce but you know ... when you have your own students who can sell themselves in the legal fraternity that says a lot about our legal education. The feedback we get from stakeholders is that there is quality in our graduates.”*

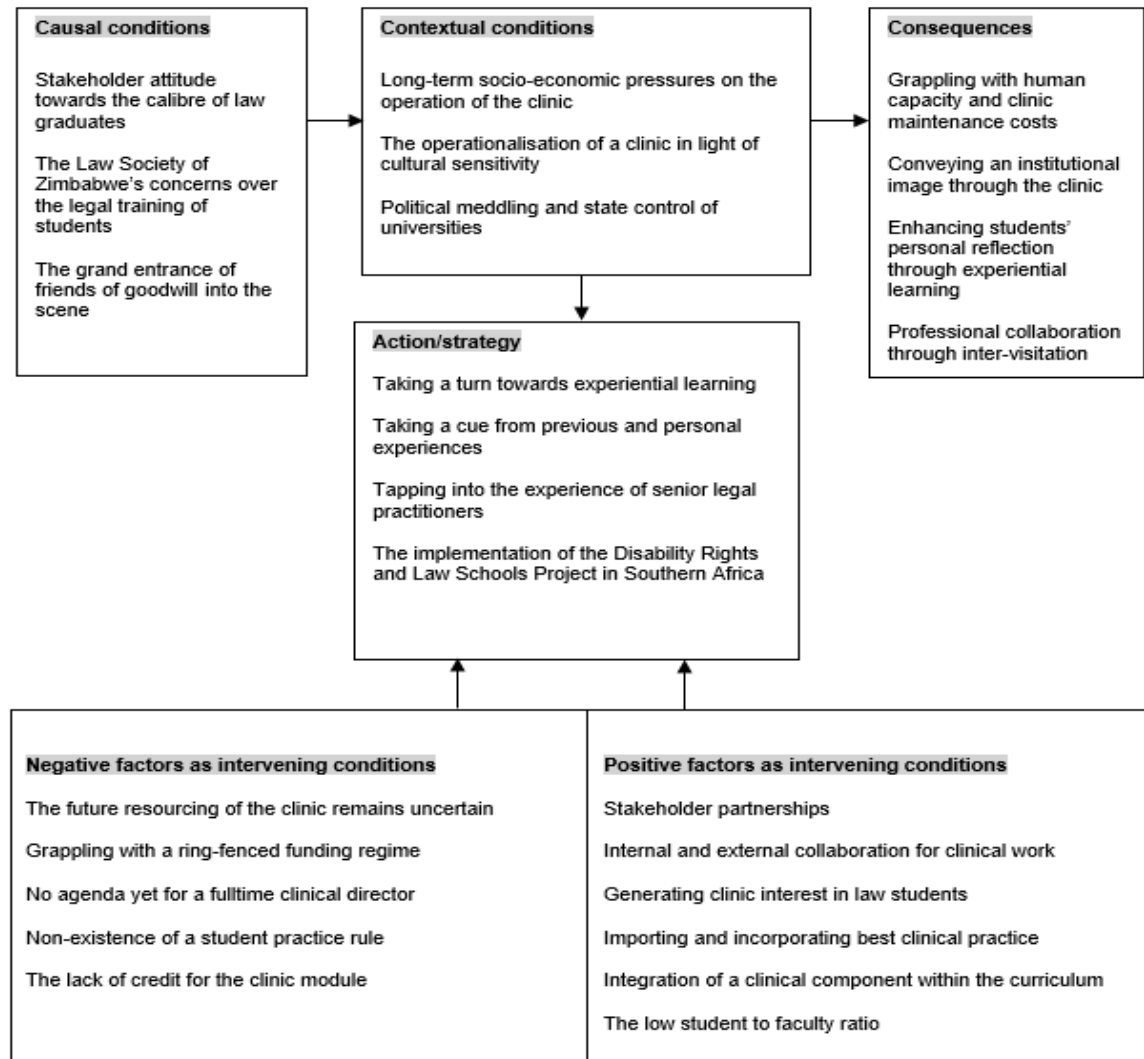
However, budget costs in the faculty of law have now been increased due to the additional maintenance costs of running the legal aid clinic. Referring to the additional financial and human resources needed for the clinic to function to full capacity research participant RP1 has noted that *“clinical legal education probably requires a fulltime lecturer to work as a legal aid clinic director but the major constraint is the issue of funding”* given that the funding is only for a specific purpose and certain section of the community. Therefore, the appointment of a clinical director using OSISA and FOSI funding would inevitably require a full approval from the two organisations. The question to ask was: *with what consequence, does ‘experiential learning’ occur or with what consequence is ‘experiential learning’ understood at Case A by the research participants?* Again, the process of axial coding located the properties and dimensions of the data analysed and it became apparent that consequences which refer to the results from the action and strategies employed by the research participants and the faculty at Case A, may have been intended or unintended; primary or secondary. As can be seen from table 20 below, an unintended consequence arose when an action to introduce experiential learning was performed with the intention of producing one consequence (quality lawyers), but in addition produced a different one (maintenance costs) which was both conflicting and negative. By connecting the categories in table 20 for relationships to understand the consequences of the strategy employed at Case A when they implemented clinical legal education, certain themes emerged as shown below in table 20.

Table 20 Themes emerging from consequential categories

Themes emerging through axial coding	Categories
Conveying an institutional image through the clinic	<ul style="list-style-type: none">• Positive public interest litigation cases• Media and publicity• University reputation• Accepted standards of clinic practice
Enhancing students' personal reflection through experiential learning	<ul style="list-style-type: none">• Responsible and competent lawyers• Lawyers for social justice• Ethical lawyers
Professional collaboration through inter-visitation	<ul style="list-style-type: none">• Co-existence amongst different law school• Partnership with friends of goodwill• Mentoring other law schools in the region
Grappling with human capacity and clinic maintenance costs	<ul style="list-style-type: none">• Fulltime clinical director• Operational costs• Funding limitations

As can be seen from the analysis of the data so far, the difference between open coding in the first section of the chapter and axial coding in this section comes down to the difference between a typology and theory in which the researcher built variables in open coding and then proceeded to generate theory through axial coding. The transition from typology to theory building brightened the clarity between categories. The development of theory around factors that have been influential in the establishment and sustainability of clinical legal education in Zimbabwe rested on explanations of those categories and reassembling the data into a visual cartographic map as illustrated in figure 16 below. The same explanations rested on empirically establishing how the categories interrelated with each other and therefore marking a phase at which the grounded theory method as a tool of data analysis began to fulfil its theoretical promise (LaRossa, 2005). The relational model displayed in figure 16 is a complete coding paradigm showing the close relationship between the relational factors yet it is not presented at this stage as a finished product. It is presented here as a framework and an analytic stance (Strauss and Corbin, 1998) that helped the researcher to organise and make sense of his data as he moved towards the generation of theory through selective coding. It was from analysing this map that a theory to explain the factors that have been influential in the establishment and sustainability of clinical legal education in Zimbabwe emerged.

Figure 16 A complete thematic generated coding paradigm

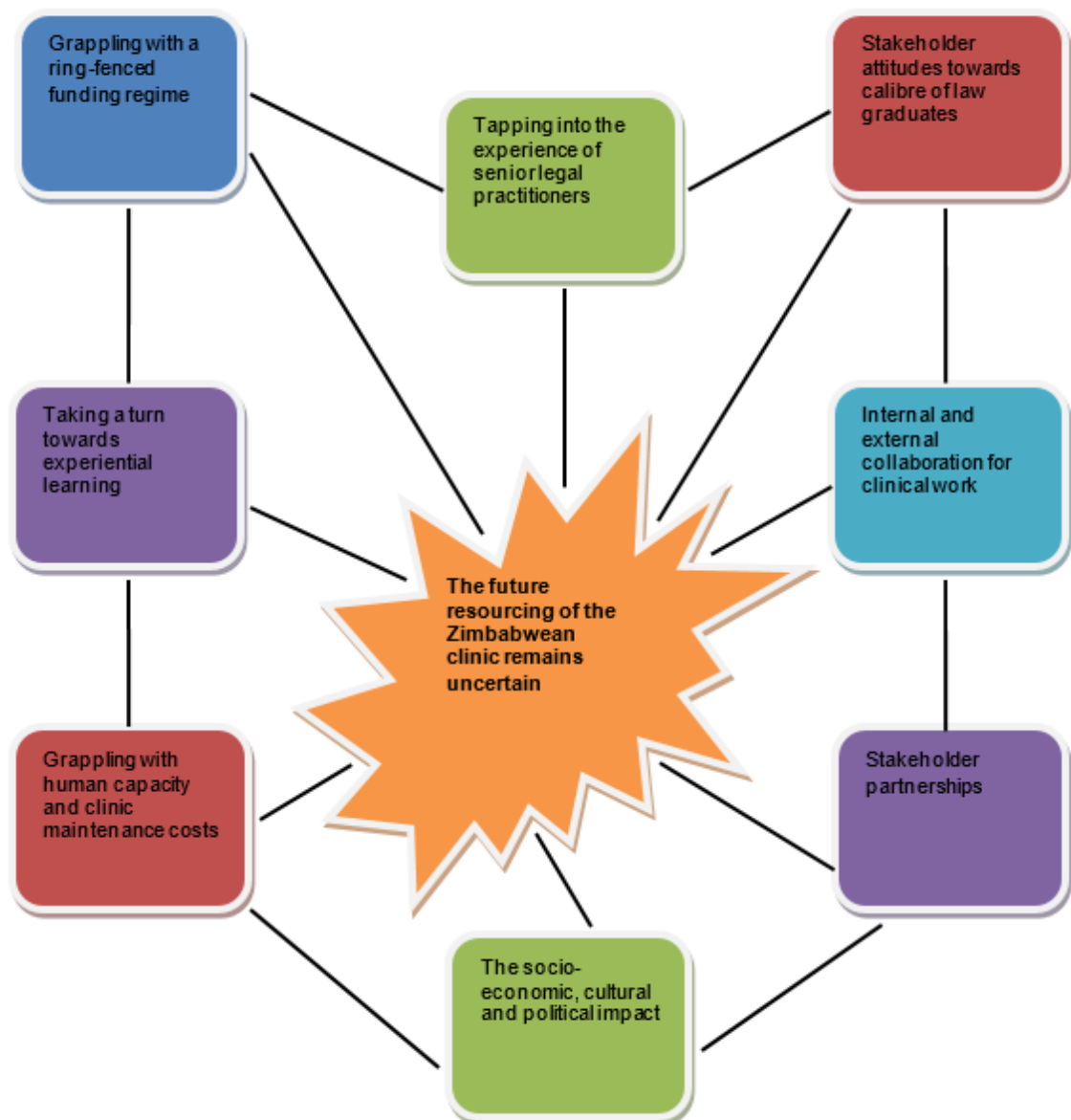


7.5 Selective coding the axial categories: Zimbabwean storyline

Selective coding in this chapter was the process in which the researcher integrated and refined theory (Strauss and Corbin, 1998) grounded in data collected from Zimbabwe. The objective of this doctoral study was to generate a clinical legal education theory that accounted for an understanding of the clinical activity in Zimbabwe through the lens of those that are closely associated with the running of the programme in that jurisdiction. To achieve this goal, it was incumbent upon the researcher to set himself at discovering the core category and to delimit his investigation around that key category by relating the other categories to it. By so doing the main category became important in the generation of theory and assumed its pivotal role in the development of the story on clinical legal

education from a Zimbabwean context. As the relationships between the key category and the other related categories increased, the core category assumed the role of integrating theory; increasing theory density and in the process rendering the core category to become saturated (Glaser, 1978) as illustrated below in figure 17.

Figure 17 Theoretically saturated and centrally connected core category



As can be seen from figure 17 a category was chosen as core because of its key feature of being central to all other categories. The shifting of factors resulted in this core category having the most connections to other categories and subsequently reducing the other factors into subcategories of the core category. The subcategories in figure 17 were

related directly and integrated with the core category. Moreover, the fact that the issue of funding appeared frequently in the data and was referred to by each research participant meant that the availability of funding for the clinic or lack thereof became theoretically saturated and hence centrally relevant to the generation of theory in this doctoral study. Through open coding and axial coding, 25 themes emerged from data collected in Zimbabwe. From each of the six compartments of the coding paradigm illustrated in figure 17, the themes were further refined by finding the axis or the central theme around which other data revolved resulting in eight being identified as central. The eight themes were further compared with the transcribed interview scripts to ensure that the thematic emergence presented a consistent message. The core category identified because of the analysis of the empirical data from Zimbabwe was: *'The future resourcing of the Zimbabwean clinic remains uncertain.'* This generation of a storyline through relating subcategories to the core category allowed for a logical and consistent explanation of what was happening with regards to clinical activity in Zimbabwe. Using selective coding, the basic theoretical scheme became apparent from data; a feat which could not have been achieved were it not of the analytical power of the key category that captured the essential meaning of the data through "its ability to pull the other categories together to form an explanatory whole" (Strauss and Corbin, 1998: 146).

Upon the emergency of theory grounded in data, further theoretical sampling was applied to refine the theory. Data analysis continued until the researcher felt that data saturation (Strauss and Corbin, 1998) was achieved. At this stage the results and findings of the data collected in Zimbabwe were deemed sufficient to answer the research question and for the research aim and objectives to be considered as having been fulfilled. Strauss and Corbin's (1990; 1998)'s version of grounded theory has been followed for this doctoral study including its coding paradigm. Also, described in this chapter are the concepts of theoretical sensitivity, theoretical sampling, comparative analysis and saturation. The findings of this research were then theoretically tested for consistency against the various factors that have been influential in the establishment and sustainability of clinical legal education in other jurisdictions as stated in the reviewed literature revisited and discussed in the following concluding chapter of the doctoral study.

CHAPTER 8 – OVERARCHING RESEARCH DISCUSSION

8.1 Introduction

The previous chapter examined data collected from Zimbabwe, presented various findings that emerged from data and concluded that the most highly influential factor in the establishment and sustainability of the clinical programme at Case A was the availability of financial resources sourced externally. In this chapter, the researcher reflects on the main research findings in terms of the doctoral study's contribution to knowledge and the understanding of the various factors that have been influential in the establishment and sustainability of clinical programmes in Zimbabwe. The scope of the doctoral study is given in the introductory section of the chapter. The chapter will begin, in the second section, by considering the extent to which the aims and objectives of the research process were attained and will proffer a reflection on the experience of using mixed methods by considering the usability of a systematic review method and grounded theory nexus in achieving the aim and objectives of the doctoral study. The third section will summarise the major findings of the doctoral study and lay a foundation for an ensuing discussion of how the research findings contribute to the theoretical developments in the global clinical movement in the fourth section. The latter section will, in addition, highlight the impact certain factors have on either promoting or impeding the development of a clinical programme. The fifth section will develop the previous section by placing the research findings in the context of the earlier literature and examine the findings' relationship to the existing clinical scholarship. In the same section, the extent to which the doctoral study is supported by existing views will be highlighted.

The relevance of the research findings will be highlighted in section six where it will be argued that comparing data collected from Zimbabwe to the literature reviewed was necessary to support the analysis of the findings. The evidence of interplay between the meanings of the research findings and an alternative explanation given in section seven is a process of validation of the doctoral study. Ultimately, this process leads to the conclusions made, the answer given to the research question and the practical steps suggested in section eight in which recommendations to different stakeholders are made. The ways in which research participants could benefit from the doctoral study to which they directly contributed are highlighted. In the same section, the researcher will draw out

the conclusion that certain practical steps need to be taken to sustain the clinic in Zimbabwe. He will argue that in the absence of an adequate, viable and continuing funding stream to meet the financial and human resources aspect of the operation of the clinical programme, the legal aid clinic at Case A faces demise. The researcher will therefore, advocate for the adoption of a robust institution-stakeholder partnership and will suggest collaboration for sustainability as a framework for fostering and sustaining clinical programmes in Zimbabwe. A critique of the doctoral study will be presented in section nine by highlighting and focusing upon the related issues of data collection and access with the gatekeepers of the other institution that the researcher had also planned to collect data from. Section ten will highlight certain fruitful areas for further exploration and will suggest possible avenues for future research. The researcher will conclude the thesis in section eleven, by dwelling upon his reflexivity. In this section, the researcher will discuss whether his initial review and research questions were the right ones to ask in achieving the purpose of the study; the generation of theory and what that tells us about clinical legal education in Zimbabwe.

8.2 Revisiting the aim and objectives of the doctoral study

The purpose of this doctoral study was to investigate legal education and professional skills in Zimbabwe. Through a research design that involved an integrated statement and justification for the technical decisions involved in planning the research project it was found, through the following research title that several factors remain influential in the creation and sustainability of clinical programmes within law schools.

Title: *A systematic review of factors influential in the establishment and sustainability of clinical programmes and a grounded theory explication of a clinical legal education case study in Zimbabwe*

As has been previously stated in Chapter 1, many law schools have expanded their legal education and legal service delivery missions using clinical legal education. Despite this strategic direction in the education of law students and the provision of free legal services, the literature review revealed that relatively little was known about clinical activity in Zimbabwe prior to this doctoral study. Ultimately, this doctoral study aimed at narrowing the research gap and conducted an empirical research into clinical legal education in Zimbabwe with a focus on investigating and identifying the factors that have been influential in the establishment and sustainability of the Zimbabwean law clinic.

Consequently, the results of the doctoral study presented in Chapter 7 have been used to provide recommendations to research participants and gatekeepers at Case A to take certain practical steps to sustain their clinical programme.

The above aim was accomplished by fulfilling the following research objectives:

1. Systematically review literature concerning factors that have been influential in the establishment and sustainability of clinical programmes from different jurisdictions.

Through the following review question, a systematic review of literature undertaken for the doctoral study identified 20 factors as having been influential in the establishment and sustainability of clinical programmes in other countries.

Review Question: *What have been the influential factors in the establishment and sustainability of clinical programmes?*

2. Undertake empirical research in Zimbabwe to investigate the perceptions, attitudes and opinions of Zimbabwean clinicians towards clinical legal education with a view of identifying the factors that have been influential in the creation and sustainability of clinical programmes in Zimbabwe.

Based on the analysis of data collected from Zimbabwe and through the application of a Straussian version of grounded theory and its related paradigm model as an analysis device, 25 factors were identified as having been influential in the creation and sustainability of the legal aid clinic at Case A. Accordingly, the ensuing data analysis process provided an answer to the research question that the doctoral study sought to investigate.

Research Question: *What factors are influential in the establishment and sustainability of clinical legal education programmes in Zimbabwe?*

3. Identify if any improvements or alterations are required on the operation of the law clinic in Zimbabwe to facilitate a high education and service quality provision for the sustainability of clinical legal education.

Based on the results of the doctoral study, 10 recommendations were suggested and classified according to urgency as illustrated by figure 20 in section eight. Crucially to theory generation, Chapter 8 seeks to test a hypothesis that the availability of financial and human resources or lack thereof is highly influential in either promoting or impeding

efforts in establishing and sustaining clinical programmes. To determine the extent to which the research findings can be construed as like or different from this key review finding, the case study findings are summarised below and will be critically evaluated considering the reviewed clinical scholarship henceforth.

8.3 An outline of the major findings of the doctoral study

As was established in the literature reviewed and analysed in Chapter 4, evidence uncovered in Chapter 7's analysis of the data collected from Zimbabwe suggests that various factors were influential in the establishment and sustainability of clinical legal education at Case A. The research findings in Chapter 7, have revealed that the availability or lack thereof of a strong financial and human resources base was the primary factor highly influential in the establishment of clinical legal education at Case A and remains so in the sustainability of the same programme. While there is no reason to assume that the financial intensity of clinical programme creation and sustainability is the single factor to consider, the evidence from Case A suggest that the availability of financial and human resources is central to the other various factors that are also influential in either promoting or impeding the creation and expansion of clinical programmes.

This doctoral study, therefore, indicates that there is an active collage of various factors that linger around the core variable of costs. The resource intensity nature of clinical programmes as central to the research participants' main concerns about the future of the legal aid clinic at Case A best explains the problem that the research participants in the study are grappling with. The resource intensity nature of clinical programmes in combination with the other various factors as illustrated below in figure 18 create a complex clinical activity environment. The time for sorting out the future financing of the operation of the clinical programme at Case A grows short as the continued funding of the programme by friends of goodwill is not guaranteed. As such, the clinical programme at Case A may be difficult to maintain. The researcher hopes that the evidence he has gathered and the analysis he has made in Chapter 7 will, through the recommendations made in Chapter 8, inform an urgent and much-needed long-lasting funding solution.

Figure 18 A complete set of 25 thematic issues identified from fieldwork data

Causal condition <ul style="list-style-type: none"> Stakeholder attitudes towards the calibre of law graduates The Law Society of Zimbabwe's concerns over the legal training of students The grand entrance of friends of goodwill into the scene 	Contextual conditions <ul style="list-style-type: none"> Long term socio-economic pressures on the operation of the clinic The operationalisation of a clinic in light of cultural sensitivity Political meddling and state control of universities 	Action/strategy <ul style="list-style-type: none"> Taking a turn towards experiential learning Taking a cue from previous and personal experiences Tapping into the experience of senior legal practitioners The implementation of the Disability Rights and Law Schools Project in Southern Africa
Negative intervening conditions <ul style="list-style-type: none"> The future resourcing of the clinic remains uncertain Grappling with a ring-fenced funding regime No agenda yet for a fulltime clinical director Non-existence of a student practice rule The lack of credit for the clinic mode 	Positive intervening conditions <ul style="list-style-type: none"> Stakeholder partnerships Internal and external collaboration for clinical work Generating clinic interest in law students Importing and incorporating best clinical practice Integration of a clinical component within the curriculum The low student to faculty ratio 	Consequences <ul style="list-style-type: none"> Grappling with human capacity and clinic maintenance costs Conveying institutional image through the clinic Enhancing students personal reflection through experiential learning Professional collaboration through inter-visitation

Building on from the outline of the research findings given in this section and illustrated in figure 18, the next two sections critically evaluate the research findings considering the findings of the reviewed clinical scholarship.

8.4 Conceptual framework and research findings relationship

To aid an understanding of the relationship between the conceptual framework and the research findings, the 20 literature review findings were grouped into compartments according to whether they were supported; unsupported and according to context. Thus, the researcher obtained the model in figure 19 to explain the similarities, differences and the ambiguity that emerged from the theoretical matching of the review and research findings as presented in the fifth section of the chapter.

Figure 19 Theoretical matching matrix model



The model in figure 19 is particularly appropriate in illustrating the similarities and divergences in views of the research participants and various opinions and perspectives of the authors of the reviewed literature as discussed under each compartment below.

8.4.1 Compartment 1: Research findings supported by literature

A closer analysis of the model in figure 19 indicates resource as the most highly influential factor in the promotion and expansion of clinical legal education. The availability of human and financial resources has had a positive effect on the creation and sustainability of clinical programmes not only in other jurisdictions but in Zimbabwe too, especially in several operational related aspects such as in the retention and status of clinical legal education staff. In Zimbabwe, the availability or lack of financial and human resources is highly dependent upon the socio-economic, cultural and political issues affecting the jurisdiction as highlighted in the model. Unsurprisingly, clinic funding in Zimbabwe is

purely external and therefore requires positive relationships with other stakeholders. Whilst the need for a strong financial base may seem to be the most important determinant of clinic creation and sustainability, there appears to be a need too for the creation of strong collaboration and other networks alongside resource for the latter to assume the status of an autonomous driver for the development of the clinic.

The elements of clinic creation and sustainability that were considered by the research participants to be most important after resources were the existence of collaboration between the law clinic and different stakeholders such as the community, ministries, NGOs, partner law schools and international organisations such as OSISA and FOSI. Strong relationships between the law clinic and other organisations such as, the Law Society of Zimbabwe, the judiciary and the legal profession has a positive effect on the development of the programme. Surprisingly, one would have thought that considering the political situation in Zimbabwe funding of clinical legal education from external sources would be viewed as a form of legal imperialism and resisted. Instead, there seem to be a positive spin to it and external funding has so far been accepted as a viable source enabling the operation of the legal aid clinic at Case A to take place.

8.4.2 Compartment 2: Research findings not supported by literature

There is little evidence to suggest any significant differences between the research findings and the review findings. As the model in figure 19 indicates, the notion of a legal service delivery through legal aid provisions by a government as a factor inhibiting the development of a clinic seems to be unsupported by the research findings. The analysis of the case study does not necessarily lend support to the idea that if the government of Zimbabwe provided legal aid as enshrined in the Zimbabwean Constitution then the legal aid clinic at Case A would certainly cease to be functional. Whether the eventuality of the provision of legal aid by the state achieves a better performance of the legal services delivery system in Zimbabwe would negatively impact on the operation of the legal aid clinic at Case A is doubtful due to the prevailing socio-economic, cultural and political conditions in that jurisdiction. This and the different context in which the provision of legal aid could be provided, explains the reasons why the doctoral study's finding has not echoed the notion that jurisdictions with legal aid provision services have a negative impact on the creation and sustainability of clinical programmes. In addition, the literature review finding that resistance to clinical legal education from the traditional academics has a negative impact on the creation and sustainability of clinical programmes is not

supported in the case study. This suggests therefore that even though literature identified certain negative factors as influential in the creation and sustainability of clinical programmes in other jurisdictions, the same factors were however not impacting on the Zimbabwean clinic as illustrated by the model in figure 19.

Taking into consideration the fact that research participants reported on their own rather unproductive experiences with clinical legal education during their university days as students at the other institution, one would have expected to get an interview from research participants with a preference for a theoretical and doctrinal teaching rather than an experiential one. In addition, the fact that the research participants were not exposed to clinical legal education during their own legal training, one would have expected interview data expressing the view that clinical legal education was untested or unorthodox. The two literature review findings on preserving conservatism and maintaining the status quo were not supported by the research findings. However, this may be a consequence of the contextual nature of clinical legal education in Zimbabwe rather than proof of the equivalence to attitudes of the more traditional law academic staff and the untested and unorthodox views on the nature of clinical legal education as expressed in literature.

8.4.3 Compartment 3: Research findings supported but context-specific

Although there is little evidence of inconsistency between review and research findings, several factors identified from interviews were context-specific but nevertheless more similar to rather than different to findings obtained from the literature review. The context-dependant research findings do not invalidate the review findings. On the contrary, the research findings presented in Chapter 7 confirm that the tension inherent between educational and service objectives needs to be balanced in the promotion of clinical programmes. However, the research and review findings do not explain the variation in balancing the two objectives and thus suggesting that this factor is specific to certain contexts. The model suggests that while it is accepted in literature that a research-intensive institution can have a knock-on effect on the creation and sustainability of clinical programmes, the review finding is not robust in the Zimbabwean context. Whilst there is a requirement for research participants to publish and to work towards gaining a PhD qualification, the research findings do not indicate a more inclination by the institution towards a research orientation than teaching. Again, the balance is context-specific and depends on the decisions taken by the university gatekeepers concerning the need for research, publication and the attainment of PhDs.

Government, political and external interference in clinic work is not as robust at Case A as suggested by the review findings. As can be seen from the model, jurisdictional policy on higher education in Zimbabwe is not as flexible as has been in other jurisdictions as indicated in literature. State universities in Zimbabwe are government funded and as such funding styles will often be determined by the availability of resources from the government. The concept of the integration of the clinic within the legal education curriculum is also context-specific. Whilst the review findings tend to hold a rather traditional picture of legal training influenced by the more traditionalist Socratic curriculum as an influential factor in impeding the creation and sustainability of clinical programmes, research participants paint a picture of integration that has been highly influenced by an external funding regime and relates to the Zimbabwean society through the establishment of the Disability Rights and Law Schools Project.

Even though the research finding on student enthusiasm may be broadly like the review finding that student enthusiasm promotes the expansion of a clinical programme, we simply do not know the extent to which this factor is influential. The cultivation of enthusiasm can be contextual and may be dependent upon how students view their role and responsibilities in clinic work. As the researcher, would later find out, this has been the tragedy within the reviewed literature. Previous literature seems to have been premature in discounting the role of students in clinic work. Not much empirical research has so far been carried out to report on the views of students concerning clinical legal education and student reflection on the work they do in the clinic except for a few student quotations littered here and there as evidence and proof of student enthusiasm in clinic work. The analysis of the data collected in Zimbabwe lends support to the idea that the views of students must be collected through empirical research and be recorded as findings. This approach could potentially provide a starting point from which we can begin to effectively measure student enthusiasm; limit writing about our successes as clinicians and provide an opportunity for our readership to look beyond our facades of grandeur or patriotic rhetoric to the wider view of the benefits of clinical legal education.

Basing on both the literature review and on the in-field research, it can therefore be asserted that through theoretical matching and generation, the researcher was able to provide a model that compliments prior clinical scholarship on whether a human and financial resourcing base remained a highly influential factor in the establishment and sustainability of clinical programmes within law schools. The model in figure 19 is grounded in the words of a set of clinicians in Zimbabwe in a specific context and in the textual data from a review of clinical scholarship. The model offers a plausible explication of the clinical legal education phenomenon in Zimbabwe. In terms of answering the

research question which looked at the clinical activity in Zimbabwe, the findings of this study seem to build on the work of most of the authors whose work was reviewed in Chapter 4. With regards to whether the research findings fit in with the reviewed literature on clinical legal education, it can be said with confidence that many of the reviewed studies on clinical scholarship characterise the research findings in terms of the sort of factors to consider in the establishment and sustainability of clinical programmes. The concept of positive and negative factors discourse presented in Chapter 7 is present in almost all the journal articles that were selected in Chapter 3 and reviewed in Chapter 4.

In terms of theme development, one of the main concepts from earlier work which has been confirmed in this doctoral study is that of the need to have a viable financial and human resources base for the development and sustainability of clinical programmes. This concept has been proved to be a useful one in the description of the various factors identified from data collected from Zimbabwe. More generally, the research findings presented in Chapter 7 seem to back up the various assertions in the clinical scholarship that understanding of certain factors as influential in either promoting or impeding the establishment and sustainability of clinical programmes is crucial. Such an understanding does seem to contribute towards the development of a clinical programme. In terms of patterns, principles and relationships, this doctoral study also identified certain factors that were context-based and not necessarily identified in the clinical scholarship such as, for example, the introduction of the legal aid clinic through the Disability Rights and Law Schools Project with its ring-fenced funding regime. Thus, even with this slight difference of how the legal aid clinic at Case A came into being, the doctoral study not only confirms the various factors that have been influential in the establishment and sustainability of clinical programmes in other jurisdictions but it also adds to the clinical scholarship and shows how useful the use of a conceptual framework was for the research. The body of work that had already been done to focus on the clinics in other jurisdictions appeared relevant to the research.

It is worth noting that the same data collected from Zimbabwe *may* have been collected if a different conceptual framework had been used or even if there was no framework at all. However, it is highly likely that the data would have been represented differently from how it is represented in this doctoral study as highlighted in the next section which discusses the direct and indirect links of the case study findings with the findings of the literature review.

8.5 Situating research findings through lens of existing literature

To examine the extent to which the research findings fit in with previous research studies on clinical legal education, particularly on the factors that have been influential in the establishment and sustainability of clinical programmes within law schools, this section will give a brief overview of the case study findings and their relationship to existing literature. The researcher never set out to embark on a doctoral study that would have been novel as to possess such a restricted focus completely detached from other previously scholarly material on clinical legal education. The questions raised from previously reviewed studies on why clinics start and how they last partly served the motivation for undertaking doctoral research in this area, albeit from a Zimbabwean perspective. In considering how the research findings fit in with the theoretical debates in field, the ensuing discussion is therefore presented in the context of the 20 factors that were identified from the reviewed clinical scholarship presented in Chapter 4 and grouped into three compartments in the previous section of the current chapter. In terms of the first compartment which grouped review findings per whether they were being *supported* by the case study, the research findings seem to build on the work of some of the authors reviewed in Chapter 4. With regards to the availability of resources; existing collaboration/networks and the need for maintaining positive relationships in the expansion of clinical programmes, the following review findings were supported by the case study research.

Literature review findings

Review Finding 1: <i>Availability of or lack of financial and human resources</i>
Review Finding 2: <i>Socio-economic, cultural and political issues</i>
Review Finding 3: <i>Retention and status of clinical staff</i>
Review Finding 4: <i>Collaboration of the law clinic with different stakeholders</i>
Review Finding 5: <i>Relationship between the law clinic and the judiciary</i>
Review Finding 6: <i>The global clinical movement as a knowledge resource</i>
Review Finding 7: <i>Community ties with the institution</i>
Review Finding 8: <i>Clinical legal education seen as a form of legal imperialism</i>

Research findings

The legal aid clinic at Case A has a relatively high cost value despite the availability of external funding from OSISA and FOSI. This is the only source of funding available. Overheads costs include, amongst others, stationery, equipment, pedagogy materials,

legal practice and development materials, communication and client care costs. From a political perspective, the research participants reported a moderate level of tolerance between the mother institution and foreign organisations such as OSISA and FOSI. Culturally, the case study findings indicate an understanding of the situation in Zimbabwe by OSISA and FOSI which we could, perhaps, conclude was crucial in reinforcing cross-cultural collaboration between the law school and the two foreign based organisations. In turn, the social understanding of the jurisdiction led to the successful introduction of the clinical programme through the Disability Rights and Law Schools Project. However, from a sustainability perspective, there are no guarantees for continued funding of the legal aid clinic at Case A as research participants do not know what the future holds for the clinical programme if the current funding stream dries up. However, the interviews have revealed that the research participants are all legally qualified and include a mixture of current practising lawyers and academics. There is neither lack of qualifications nor dearth of experience among the legal aid clinic staff at Case A. The clinicians have not been accorded a second-class status ranking.

The case study has also revealed that the university contributed space for the clinic; that the legal aid clinic gets referrals from non-governmental organisations and that private law firms provide free supervision of students during their work-related learning programmes. The case study findings also reveal a collaborative framework for the clinic in Zimbabwe in which OSISA and FOSI fund the institution's legal aid clinic. Research participants widely reported that it was the calibre of graduates on entry into the legal profession that precipitated concerns from different stakeholders including the Zimbabwean judiciary. Stakeholder complaints set the stage for the institution to stir its legal curriculum towards a clinical pedagogy. Through a 12 months long externship in the form of a work-related learning programme, Case A's law students work for six months in magistrates' courts before they go for a further working period of six months with private law firms. Increasing awareness of the range of ways in which such opportunities for students can be utilised is therefore relevant in the establishment and sustainability of clinical programmes.

The idea of having local clinicians travelling to other international and regional law schools to familiarise with clinic practice from each of the law schools visited promotes vibrancy in the operation of the clinical programme at Case A. Clinicians seek to build closer links with the law schools in Malawi, Botswana, Zambia, Mozambique, Namibia, Tanzania and South Africa since these jurisdictions already have their law schools participating in the Disability Rights and Law Schools Project initiated by OSISA. In their elaborations of the nature of the community development in relation to the operation of their clinical programme, research participants identified a range of key features that have been

necessary in the context of the clinic establishment and its continued sustainability. They reported that effective community development involves a commitment by both the students and staff to undertaking outreach programmes. They stated that the community development through the Disability Rights and Law Schools Project also involve the establishment of supportive communities based on developing and sharing resources, social interaction and participation. Sustaining community ties through outreach programmes suggest the importance of community and institution coherence as an influential factor in the establishment and sustainability of the clinical programme. The case study findings have revealed that the external funding by the two foreign organisations, OSISA and FOSI to fund the legal aid clinic at Case A has been important. Positive comments emerged regarding the true value of external funding continuing in the education of students and its outcomes in changing the lives of the indigent community served by the institution. While research participants conceded that the academic scope and legal service delivery value of the clinical programme was limited by the ring-fenced funding regime that focussed only on disability rights, they appreciated the opportunity for social and professional development of their students inherent in law clinics. They were welcoming to the funding by OSISA and FOSI and their perceptions on external funding from foreign-based organisations were therefore not influenced by any possible assumptions or suspicions that the Disability Rights and Law Schools Project at their institution could have been a part of a plan to *Americanise* or *Europeanise* Zimbabwe.

Researcher commentary

The view in literature around the need for a viable financial and human resource base in the establishment and sustainability of clinical programmes has been echoed by the research findings. Even though the mastery required in successful fundraising may not be as effective in developing countries as it is in developed jurisdictions, research participants are aware that fundraising is largely about defining the goals the intended clinical programme aims at achieving beyond the lecture room and in such a way that appeals to a wide range of funders. Funding from OSISA and FOSI will eventually dry up and it has been recommended in section eight that it will be incumbent upon the research participants and their faculty to engage in a robust fundraising exercise and make that exercise become a standard part of the clinic's legal education and service delivery if the clinic is to survive beyond the current funding regime. Even though the research findings seem to have adopted a generally more optimistic tone than other studies that have reported on the negative impact of the socio-economic, cultural and political fabric of the

society in which clinics being created by international organisations and foreign personnel experienced significant difficulties, there is a certain consistency in the broad direction of the research findings. Literature has posited that it is not uncommon for governments to pour funding into the training of students in other areas of education such as, for example, medical students. Saving lives is a compelling basis for government funding at higher levels than is teaching law students to become lawyers. Yet, the lack of clinic funding by the Zimbabwean government, has the potential to cause unprecedented personal, financial and mental distress for members of the indigent communities who already suffer from societal inequities. The research findings are therefore consistent with the review finding that a successful clinical programme is shaped, by the backgrounds of the people working in it and with a strong commitment both to delivering casework services to people who would otherwise be unable to access legal advice.

The cost-saving approach in the establishment and sustainability of the legal aid clinic at Case A replicates the findings of the reviewed literature which has suggested the same approach as crucial in the expansion of clinical programmes. The interviews show that clinical legal education is perceived by the legal profession, the judiciary, non-governmental organisations, the community, students and international funding bodies to have a positive effect on the education of students and as a vehicle for championing the cause for the advancement of social justice and equality in accessing justice. The research findings therefore chime with the finding of the literature review which has identified collaboration between different stakeholders in the creation and sustainability of clinical programmes within law schools as influential. The general appeal for interest in seeing legal education reforming towards the adoption of an experiential learning approach as widely reported in the literature has been echoed by the findings of the doctoral study. Similar perceptions of the research participants to those of the literature in emphasising the importance of judiciary activism and the impact a good working relationship between the judiciary and the institution of higher education can have on the development of an institution's clinical programme have been identified.

The benefits accrued from undertaking visits to both the international and regional based law clinics and bringing back to Zimbabwe best clinical practices and new methodologies correspond to the review finding of the existence of a global clinical movement as a good source of knowledge. The confirmation by the research participants of the lessons learnt from such visitations and the effect on practice encapsulated by such networks is invaluable in the development of a clinical programme. There is therefore consistency in the broad direction of the research findings with regards to the notion of learning from peers and pioneers as a factor influential in the establishment and sustainability of clinical

programmes within law schools. With regards to institution and community relationships, the research findings seem to be supported by the literature reviewed because of the latter's emphasis on the benefits that accrue from building well-developed community ties that reflect its needs economically, socially, culturally, spiritually and politically. The review finding that for clinical programmes to be sustained, universities must evolve with the needs of the community through the inclusion, in the legal education curriculum, of a social justice component that reflects a community demand has been confirmed. The case study shows an interesting finding. Literature has reported on hostilities by local governments and institutions towards funding by foreign based organisations particularly where there are strings attached. The ring-fenced funding regime through OSISA and FOSI could have potentially sowed the seeds of suspicion. Contrary to the view of literature, the research participants did not find the availability of external funding from OSISA and FOSI and their participation in clinical legal education in Zimbabwe to be a form of legal imperialism. To establish clinical programmes in foreign jurisdictions the methodology needs to be collaborative and this has been confirmed by the case study findings.

As can be seen from the discussion of the first compartment, many of the studies reviewed and stated above characterise those factors that have been found to be crucial in the establishment and sustainability of the legal aid clinic in Zimbabwe. The concept of financial and human resources grounded in data collected from Zimbabwe and the need for establishing positive relationships through collaboration to achieve expansion in a clinical programme is present in many reviewed journal articles. However, in the second compartment at least four factors were identified from literature as having conservatism characteristics and thus negatively affecting the development of clinical legal education. The following review findings were not identified as impacting on the Zimbabwean clinic; were not echoed in the data and were therefore not supported by the research findings.

Literature review findings

Review Finding 9: <i>Attitudes of the more traditional law academic staff</i>
Review Finding 10: <i>Views that clinical legal education is untested and unorthodox</i>
Review Finding 11: <i>Resistance from the legal profession</i>
Review Finding 12: <i>Legal services delivery policy</i>

Research findings

The case study findings have revealed that there has never been any opposition from other members of the law faculty to the idea of establishing the legal aid clinic other than the usually initial scepticism and ignorance on law clinic's essence and benefits. One explanation to such ignorance is the finding that most of the faculty members at Case A were educated at another Zimbabwean university where clinic had no academic support, was voluntarily manned by students. Perhaps not surprisingly, this explains why all the research participants, themselves former law students at that university, perceived clinical legal education in Zimbabwe as an important aspect of the legal training for those who aspire to practice law and indeed for those who provide employment to the graduates. Research participants commented on their own experiences as law students and opined that the legal aid clinic at the other institution was dysfunctional and overtly passive. In other words, any ignorance on the benefits of clinical legal education the research participants may have ascribed to their colleagues at Case A do not equate to any negative attitude or resistance to innovative clinical programmes that seems to be the predominant view of the literature reviewed. The case study findings reveal no such strong views. There seem to have in existence, albeit at the later stages of planning, a consensus within the university management and the faculty on the advantages of a legal aid clinic that not only promotes effective education but is a vehicle for social justice too.

The description of the views by the Law Society of Zimbabwe and other stakeholders reveals the whole complexity of a curriculum that does not include a clinical component. In Zimbabwe, support for the establishment of the legal aid clinic stemmed from an understanding by the legal profession of the benefits that accrue from running such a programme within a law school. The interviews have shown that the Law Society of Zimbabwe and its affiliated membership is rather outward-looking in its approach, focusing on internal needs but equally so on the overall quality and high standardised training of their future employees. Interestingly, the research findings have revealed that it is a constitutional right for the Zimbabwean citizens to be entitled to legal aid from the government and this right is enshrined in the Zimbabwean Constitution. However, research participants have said that so far this right only exists on paper and they attribute this to lack of funding for the operation of the scheme perhaps because of the economic turmoil currently blighting the country. Consequently, the interviews have revealed that because of the ineffective Zimbabwean legal services delivery policy, those who have an unmet legal need turn to the clinic for assistance.

Researcher commentary

There is no consistency *per se* in the broad direction of the research findings with regards to the negative attitudes of the academic staff towards clinical legal education as highlighted in literature. Even though there is evidence indicating the lecture/seminar type of legal training that research participants themselves received whilst they were still law students, the interview results adopt a generally more optimistic tone than the findings of the systematic review. The attitude of the other faculty members towards the introduction of the legal aid clinic at Case A has never been so much an issue as to stifle efforts in creating the legal aid clinic. In the case study, the motive of experiential learning seems to have prevailed over views suggested by the reviewed literature as influential in inhibiting the creation and sustainability of clinical programmes. The lack of such views in the case study suggests very strongly the support the faculty colleagues and the institution had for the introduction of the legal aid clinic at Case A. Certainly, differences in stance by the legal professions cited in literature towards clinical legal education and the research finding which has attributed the success of the clinic in Zimbabwe to a good working relationship between the institution and legal profession suggests different perceptions of the doctoral study to those of the reviewed literature. Literature has reported on opposition from the legal profession. On the contrary, the legal profession in Zimbabwe has been in support of clinic innovation. Having a constitution that gives a right to citizens to receive financial assistance for legal services is on paper an indication of an obligation to abide by the spirit of the Constitution and provide legal aid to indigent communities which would see legal aid being the prerogative of legal aid lawyers. If looked at retrospectively, this would be consistent with review findings as it would have meant more work for legal aid firms and less or no work at all for the legal aid clinic at Case A, making the research finding a proxy for the views contained in clinical scholarship on the negative effects legal aid provision by the government has on the creation and sustainability of clinical programmes. However, from a Zimbabwean context, we simply do not know whether this would have had an impact on the Zimbabwean clinic.

Meeting an unmet need by the legal aid clinic at Case A can be said to be by default. It is based on the failure by the government to deliver on a clear stipulated provision of the Constitution. The legal aid clinic at Case A is an alternative approach to accessing legal services by the indigent community where other approaches seem to be faltering. Nevertheless, the research finding cannot be adjudged as broadly in line with the finding from other studies that the researcher reviewed which have argued that funding provided by states for the delivery of legal service to the indigent community potentially stifles

opportunities for the expansion of clinical programmes. Whilst the findings in the reviewed clinical scholarship were mostly echoed in the data with minimal divergences as stated above, evidence from this doctoral study seem to point to the fact that certain factors were supported, albeit with a caveat to being context-specific. This explains the ambiguity brought up by trying to reconcile the case review findings with the case study findings. The following review findings from the third compartment do seem to back up this assertion.

Literature review findings

Review Finding 13: <i>Tension between education and service objectives</i>
Review Finding 14: <i>Integration of the clinic within the curriculum</i>
Review Finding 15: <i>Research-intensive institution and clinical pedagogy</i>
Review Finding 16: <i>Government, political and external interference</i>
Review Finding 17: <i>Jurisdictional policy on higher education</i>
Review Finding 18: <i>Staff-student power relationships</i>
Review Finding 19: <i>Types of students selected for the clinic</i>
Review Finding 20: <i>Student enthusiasm or lack thereof</i>

Research findings

The service expectations at the legal aid clinic at Case A are linked to the external funding from the international based organisations, OSISA and FOSI. Inevitably, there would be an expectation from these friends of goodwill that the legal aid clinic carries out the mandate of promoting disability rights within the jurisdiction using the external funding that has been made available to the institution. Even though, the case study contains comments from the research participants alluding to the fact that, to a certain extent, they consider the work they do through the Disability Rights and Law Schools Project as more for the education of their students than delivering a service to the clinic's clients, they are very much aware of the mandate they must fulfil. Whilst research participants envision opportunities for advanced study in disability rights to students, they are also aware that it is incumbent upon them to ensure that they maintain a balance between education and service missions by taking forward litigation to promote enforcement of rights protected in the Zimbabwean Constitution as mandated by OSISA and FOSI. The law school does focus on developing the disability rights substantive course module and sends academic staff for further professional development to gain a higher level academic qualification to enable staff to teach the module thereafter. The findings reveal a lesser focused trend on developing the actual legal aid clinic and the faculty involved within it. Research

participants report that their students have shown interest and seem enthusiastic about their clinical programme. This is so even though the programme has a no clinic credit-bearing, a factor which literature has clearly articulated as an impediment to clinic development. The no credit-bearing nature of the programme has the potential to stall integration and consequently leads to significant difficulties in the creation and sustainability of clinical legal education. The research participants reported that there is a requirement set upon every lecturer at the institution to rapidly and continually publish academic work to sustain and/or further one's career. It appears from the tone of the interviews that research participants feel pressurised. They report that they sometimes struggle to balance the teaching at the clinic, outside of the clinic and publish at the same time. They have also been told that they must attain PhDs by a certain period but they are not certain as to what would be the eventuality of them having failed to achieve such a qualification by any stipulated time. The case study has revealed that the clinic was once stopped by the university from taking up a public interest litigation case involving voting rights for persons with disabilities and that it is possible that the clinic may, in future, be hesitant in taking up public interest lawyering cases where the action would likely bring the clinic and the state into a collision. Interviews have shown that state universities in Zimbabwe are funded by the government and it is therefore inevitable that the funder would normally have a vested interest in the law clinic's clientele and the cases the clinic handles. Such a scenario indicates an interference that would undoubtedly impede the sustainability of the clinical programme.

Lecturers' salaries at Case A are paid for by the government through a salary services bureau which caters for every civil servant under the employ of the Zimbabwean government. The government funding policy of state universities, of which Case A is, will only cater for those that are appointed as lecturers to teach substantive law modules. Even though it may be the faculty's desire to have someone appointed on a fulltime basis as a director for the legal aid clinic, in the absence of a provision in the government funding policy clearly stipulating recognition and acceptance of the responsibility to pay the salary of that appointee, such a desire will always remain a pipe dream in eternity. This type of government funding model reinforces the reliance of the clinic on the already overburdened academic faculty for support and this has therefore a potential to limit the development of the legal aid clinic. In the case of staff-student power relationships for the live-client work handled at the legal aid clinic at Case A, the case study has revealed that even though students do not rise from their seats and stand to attention when their lecturers enter the clinic, the first contact between the client and the clinic is the prerogative of the clinician and not so of the student. The latter's only opportunity to meet with a client, face to face, is when there is a need to make a follow-up to the initial

interview conducted by the supervisor. Only if there are any identifiable gaps in the information given out by the client in the first meeting with the supervisor will an opportunity presents itself to students to carry out a secondary interview with the client and perhaps come away with some sort of understanding of how to conduct an interview with a client. In the same way as reported in the literature, student maturity was perceived as an important factor in the establishment and sustainability of the legal aid clinic. The students start working at the legal aid clinic in their fifth-year after they come back from a yearlong work-related learning programme. The interviews show that student enthusiasm is perceived by research participants to have a positive effect on the legal aid clinic's performance in the education and service delivery aspects of the Disability Rights and Law Schools Project. Even though students seem to have less contact time with clients, the case study has revealed that the research participants do believe that their students have remained motivated in their clinical experience.

Researcher commentary

The finding in this doctoral study does not invalidate the literature review finding on the inherent tension between the education and service missions of clinical programmes. On the contrary, the research finding confirms awareness on the part of the research participants of the inherent tension between the two objectives which undoubtedly would require a robust and significant set of skills to deal with effectively. The research finding can neither be broadly similar nor rather different to the finding of the literature review because of ambiguity which could be attributed to context. Literature argues that if students are to be encouraged and incentivised to be able to devote a significant portion of their time for legal training to the time that the client cases handled by the clinic would require, then the potential to integrate a clinical component and realise the benefits of a clinical programme should be possible to achieve. Yet the case study has revealed that the legal aid clinic at Case A is a no credit bearing module. What has caused the success of integrating the legal aid clinic into the main curriculum at Case A cannot be definitively resolved according to the finding of the literature review. Several interpretations are plausible and are context-dependant. This turn of events makes it an impossible feat to conclude with any certainty whether this research finding does fit in with the review finding that a non-credit-bearing module impedes the expansion of clinical programmes.

It is worth noting that the case study analysis revealed a finding which suggests that even though the mother institution had indicated its desire to have members of the academic staff getting publications into academic journals and attaining PhDs by a certain period,

this may not entirely equate to a *publish or perish* type of death knell that literature review has revealed. Such decisions are context-specific. Again, there seem to be an ambiguity here on whether the research finding chimes with the finding from the literature review that if one does not *publish* they *perish*. The call for frequent publication and the requirement to have attained a PhD by a certain period can be interpreted as merely one of the few methods available for research participants to demonstrate academic talent and boost opportunities for career progression. Nevertheless, research participants can still argue for a wider definition of scholarship than their traditional academic colleagues by pointing out the broad social and professional goals of their legal aid clinic and the richness and complexities of their clinical methodologies in addressing OSISA and FOSI's disability rights initiative in written academic articles. On the other hand, if research participants preoccupy themselves with trying to distinguish between writing about their clinical pedagogy and the traditional law teaching and do not publish, there is a likelihood that they would be overlooked at the time of promotion followed by an almost unavoidable second-class status not only for them but their legal aid clinic too as literature has suggested. Even though interference and the magnitude of influence from external forces can take different forms and is usually contextual, with regards to whether the research finding fits in with finding of the review, there is a certain consistency in the broad direction of the research finding. The case study has revealed an occasion of an infringement of basic academic freedom in the form a restriction on the content of clinic litigation by the university acting on behalf of its funder i.e. the government. This research finding is therefore broadly similar to the review finding that has revealed an unprecedented attack on the freedom of law clinics in other jurisdictions and in the process inhibiting the development of clinical programmes.

The view in the literature that the failure by those responsible for policy formulation to realise that law schools and their clinical programmes are the cornerstone of legal education reforms has the potential to impede the expansion of clinical programmes has been confirmed by the case study. However, we must be mindful that such policy formulations are contextual and dependent on the availability of financial resources from state coffers. What one works for one jurisdiction does not necessarily mean it would work for another jurisdiction in a different context. The research finding also suggests a form of deference as stated in literature but only as far as case handling is concerned. Literature's account of deference extending to students rising from their seats and only sitting when instructed do so is not supported in the case study. However, it seems obvious that not allowing students in the first instance to interview live-clients who come to the clinic for free legal advice may be viewed as a remarkable example of the deference to tradition as reported in the literature. Not providing the students the opportunity to interview at the first

instance and only accord them that opportunity at the later stages of the case only if there is need for clarification, has the potential to make students feel that their legal judgements are being unnecessarily impugned. However, such arrangements ought to be looked at and be judged from the context in which they operate. Operating a clinical programme has its own complications and there is therefore a need to recognise that the legal aid clinic at case A is a regulated entity under the watchful eye of the Law Society of Zimbabwe and so too are other clinics by their local law societies in other jurisdictions. When clinicians make assessment of what is educationally productive for their students and an assessment of professional obligations owed to the client, it is inevitable that they will face an unavoidable role confusion and professional conflict when the two assessments collide. Nevertheless, it is this direct intervention by the clinicians in taking initial instructions from clients that *may* serve as an inhibiting factor in the expansion of clinical programmes even though the intervention may well have been to protect the interests of the client.

The research findings have not drawn any discrepancies between the research participants' views on their student selection criteria for the clinic and those predominantly depicted in the literature. The similarity between the review finding and the research finding regarding the type of student to select for clinical work suggest consistency between the two broad sources of knowledge and therefore underlines the relevance and importance of student maturity in the establishment and sustainability of clinical programmes within law schools. In terms of how this research finding fits in with the finding from the literature review which clearly put an emphasis on the importance of cultivating student enthusiasm through such aspects as student autonomy and direct contact with clients, there seem to be some ambiguity in the broad direction of the research finding. There is a clear uncertainty as to exactly what motivates students at Case A. The literature's interpretation of student enthusiasm as being a result of the clinician's role in clinical programmes becoming more facilitative and helping students discover solutions for themselves rather than merely setting out tasks for students to perform does not seem to chime with the research finding. This role is clearly absent in the data collected and analysed in Chapter 7. Nevertheless, the case study's finding, through an analysis of the research participants' responses, indicates some evidence of students' enthusiasm for the work they do at the legal aid clinic and proving therefore that several interpretations are plausible here and the ambiguity may be attributable to context.

More generally, the case study findings seem to back up the various assertions in the literature that certain factors are crucial to consider in the establishment and sustainability of clinical programmes. The theoretical matching and comparison highlighted in this

section also indicates that, certainly, differences in context could contribute to the rate different between certain factors found in this doctoral study and some factors identified in the reviewed literature. However, the minor differences between the review findings and the case study findings were too trivial as to take away the relevance and importance of the research findings to the overall development of knowledge in the field of clinical legal education.

8.5.1 The theoretical matching matrix outcome

Various factors were found to have been influential in either promoting or inhibiting the expansion of clinical legal education in other jurisdictions and in Zimbabwe. In general, the identified factors were broadly similar to the various factors identified from the systematic review undertaken before fieldwork commenced. However, the differential impact of factors in the Zimbabwean context was revealed, suggesting a more complex model.

8.6 Unpacking research findings implications and relevance

The relevance and importance of this doctoral study's research findings can be seen from several viewpoints. Firstly, as clinical researchers and scholars, we have a responsibility to expand frontiers of knowledge in our field. Secondly, we live in an era where experiential learning is, to a certain extent, becoming an epitome of legal training and as such the creation and sustainability of clinical programmes must be guided by certain various factors which are derived from research evidence. So, if we want our clinical programmes to gain the status that other programmes within a university are accorded, it is incumbent upon us to provide evidence of their effectiveness. The old saying: *"give a man a fish and he will eat for a day. Teach a man to fish and he will eat for a lifetime"* is equally applicable in backing up the key message that this doctoral thesis and the views of other authors endeavour to make. Where the education of our students is solely through a lecture and seminar method, what we are doing as legal educators is dedicating our energies towards giving our students large quantities of fish in the form of theory-laden substantive law lectures and seminars but little or no skill at all in fishing taking the form of practice. Unfortunately, the transmission of legal knowledge in that way does not automatically mean that we are successful in educating and preparing our students for the

future practice of law. Whilst the researcher appreciates the fact that the lecture method ought to be part of the overall preparatory exercise of students for practice, it ought to be equally accepted that in the absence of a clinical component within the mainstream legal education, lecture and seminar methodologies on their own will undoubtedly promote passive learning. In this way, our efforts at producing competent and responsible lawyers will falter and be less effective than practical work which increases students' confidence and motivation for participating actively in their legal training. It was through this realisation on the part of the researcher that motivated him to embark on an empirical research process to investigate the clinic in Zimbabwe. Concerning the knowledge claim that was made by the researcher prior to the commencement of the doctoral study in 2013 that there had never been any research on clinical legal education, albeit from a Zimbabwean perspective, that claim has been proved right. The research findings are broadly in harmony with the findings of the systematic review of literature with regards to the creation and sustainability of clinical programmes and the factors that are influential in either promoting or impeding the creation and sustainability of clinical programmes within law schools.

The doctoral study supports the argument for experiential learning in legal education. The availability of financial and human resources or lack thereof is the most highly influential factor in either promoting or impeding the establishment and sustainability of clinical programmes within law schools. This doctoral study therefore offers suggestive evidence for the need of a viable source of funding that the operation of a clinical programme would need in its development. Even though the doctoral study appears to support the argument for experiential learning, it takes into cognisance the issue of unavoidable costs involved in running such programmes and suggests strategies for sustainability. On the face of it, the key research finding of external funding as having been a highly influential factor in the establishment and sustainability of the legal aid clinic at Case A confirms the views of authors in the reviewed clinical scholarship. The tentative conclusions of the doctoral study are confirmed suggesting therefore that for clinical programmes to be created and be sustained within law schools the importance for a stable financial and human resource base cannot be overemphasised.

In addition to confirming the resource hypothesis, this doctoral study has made three major contributions to literature on clinical legal education since the research on this subject is relatively new and doctoral studies in this area are still limited. Firstly, this doctoral study is the first ever comprehensive research undertaken in Zimbabwe to investigate the factors that have been influential in the creation and sustainability of the law clinic at Case A. This study therefore should contribute to the understanding of the

development process the legal aid clinic in Zimbabwe. Secondly, the target readership of the doctoral study has always been everyone with interest in clinical legal education. However, the themes generated from the research findings and compared to those generated from the literature review should provide the research participants at Case A with a space in which they can devote to their own critical understanding of the issues, discussed in relation to what the researcher set out to show as influential factors. Thus, the research findings should enhance our knowledge of the factors that have been influential in the creation and sustainability of clinical programmes in Zimbabwe and other jurisdictions. Finally, the doctoral study followed a mixed methods research approach. The combination of quantitative and qualitative research paradigms in the form of a systematic review of literature and grounded theory nexus increased the originality of this doctoral study. Although mixed methods' application in research began in the 20th Century (Creswell and Plano Clark, 2007) the concept and its impact on clinical legal education research remains unfamiliar to many researchers in the field of clinical legal education. Therefore, the researcher hopes that the research findings would attract other clinical legal education researchers' attention to the concept of using systematic review methods to select and review clinical scholarship relevant to answering research questions and to use grounded theory approaches and devices as tools for data analysis.

Even though this doctoral study did not overtly set out to be guided by any theoretical orientations at the beginning of the research, the use of a conceptual framework, presented in Chapter 4, was quite useful. The conceptual framework helped the researcher to pull his data together, order his thoughts around it and organise how he was going to present his research findings in a way that could clearly be communicated to a wider thesis readership and allow flexibility in the interpretation of the doctoral study.

8.7 A possible alternative explanation of the findings

The essential hypothesis was that the availability of financial and human resources or lack thereof needed for the implementation of clinical programmes often inadvertently influences either the failure or success of such programmes and that this trend frequently continues even after the law clinic has been successfully established. The case study research findings have also indicated that had it not been of the funding of the legal aid clinic through the Disability Rights and Law Schools Project by OSISA and FOSI, the creation of the clinical programme would not have been possible. Yet, drawing upon the same fieldwork analysis of the case study, a dissenting voice and counter argument to the

theory generated from the research finding *may* be possible. Alternatively, it can be argued that any one of the 25 themes generated from the data analysis has the potential to be regarded as having been highly influential in the creation of the legal aid clinic at Case A and remains influential too in sustaining the clinic. Taking collaboration between different stakeholders as an example, there is ample evidence from the research findings of the involvement of the Law Society of Zimbabwe, the judiciary, the legal profession and the two international organisations in the form of OSISA and FOSI. It remains a well-established fact that collaboration laid the foundation upon which the legal aid clinic at Case A was successfully established. It may, therefore, be possible to argue in the alternate that collaboration was crucial and should trump resources as a key category emerging from the data analysis or that there is a positive symbiosis between these factors as illustrated by the model in figure 19 and discussed in section 8.5.

It must be appreciated, however, that it is virtually impossible to separate the 25 themes generated from the research findings from the key category of resource availability or lack thereof. The researcher established that the operation of this highly influential factor is intrinsically intertwined with the other themes of which collaboration is part of. The external funding by OSISA and FOSI and the related costs implications of running the legal aid clinic at Case A was central to the case study findings in that it related to all the other categories and dominated the developing theory. The current availability of external funding of the clinical programme links with all or at least most of the other factors presented in Chapter 7. The resource category retains its frequent recurrence status throughout the large portion of the data and hence the researcher's perception that its centrality provided a stable pattern of relationships with the other factors. It therefore became easier to talk about clinical legal education in Zimbabwe and what was happening in the data using the core category of human and financial resource. Moving on from the discussion of remaining objective by viewing the research findings through alternative lens and maintaining equipoise to avoid considering only those explanations that fit the doctoral study, the next section of the chapter makes several recommendations based on the results of the doctoral study. Supported by the findings from the data analysis the following section therefore suggests certain practical steps the research participants can take to implement the key findings of the research study.

8.8 Recommendations: resilience in the face of adversity

This study found that there are several factors that have been influential in the establishment and sustainability of clinical legal education at Case A but human and financial resource has been the most highly influential one, providing evidence therefore, that the continued existence of Case A's clinical programme is heavily dependent upon the availability of external funding from friends of goodwill. Thus, research participants and the institution's management team may need to make knee-jerk financial and human resources decisions in the face of adversity and loss of external support in the future.

The researcher believes that the research findings have offered an unparalleled opportunity for an outright understanding of the factors that have been influential in the establishment and expansion of a clinical programme in Zimbabwe. The following recommendations are offered to the institution, the law faculty, members of the legal aid clinic and the Law Society of Zimbabwe for the continued sustainability of the legal aid clinic at Case A. They are linked to the model of support and/or threat highlighted in section 8.5 and are classified into three compartments of recommended practical steps i.e. extremely urgent, urgent and desirable as illustrated below in figure 20.

Figure 20 A classification of recommendations for the Zimbabwean clinic

Recommendations based on research findings	Preponderance of the action to be taken
<i>Identify and clarify clear sustainability objectives and desired clinic outcomes</i>	Extremely urgent and requires immediate action
<i>Clarify the role of the legal aid clinic in the OSISA law schools project</i>	Extremely urgent and requires immediate action
<i>Enhance sustainability by soliciting views of different stakeholders</i>	Extremely urgent and requires immediate action
<i>Seek and increase opportunities for network and partnership creation</i>	Urgent and action is necessary
<i>Pursue and advocate for the formulation of a regional clinical movement</i>	Urgent and action is necessary
<i>Find professional support and mentorship</i>	Urgent and action is necessary
<i>Turn the clinical programme into a credit-bearing module</i>	Urgent and action is necessary
<i>Provide further training opportunities for clinical faculty</i>	Not urgent but action is desirable

<i>Propose for a training of trainers' course for regional clinicians</i>	Not urgent but action is desirable
<i>Advocate for legislative reform to introduce a student practice rule</i>	Not urgent but action is desirable

The classification of recommendations according to preponderance is intended to improve consistency; increase transparency of the recommendations made; facilitate understanding of the recommendations suggested and enhance recognition of the need for action and urgency in implementing the practical steps as suggested by the researcher. The recommendation strength communicated by figure 20 is a call by the researcher to research participants to adhere to the suggested practical steps and is based purely on the evidence from research findings and the magnitude of threat and/or support for clinic sustainability. The following recommendations are made because the analysis of the findings have demonstrated an exceptional preponderance of the human and financial support that could be needed to continue the programme and the threat imposed by the likelihood of loss of OSISA and FOSI funding in the future.

1. Identify and clarify clear sustainability objectives and desired clinic outcomes

The review findings in Chapter 4 suggest that running a clinical programme is such a daunting task and its success and sustainability is highly dependent on the existence of a healthy financial funding stream. The research findings presented in Chapter 7 also show that the clinical programme at Case A is wholly dependent upon the external funding provided by OSISA and FOSI. Yet the continued external funding of the legal aid clinic by the two organisations is not guaranteed in future. The research participants must therefore manage expectations considering the possibility of major changes because of the external funding coming to an end. They must be prepared for change and for honest and constructive feedback on funding options. This may seem not easy to handle. However, being prepared in advance may help to ease the feelings of uncertainty and future funding gloom. The researcher recommends that gatekeepers at Case A must, at all the times, be in a preparedness state for change in the funding dynamics of the programme. It will be helpful if the faculty's management feel ready and not simply take comfort in the current availability of funding at the behest of international organisations. The institution would do well to reflect on the most appropriate funding options to allow programme continuity post availability of funding from OSISA and FOSI.

Research participants should explore the importance of lobbying and developing fundraising strategies for the legal aid clinic to continue either alongside the current existing funding regime or indeed upon the OSISA and FOSI funding stream running dry. Raising awareness and gaining a better understanding of what sustainability means in light of funding the clinical programme is crucial for sustainability and must be defined in the context of the external funding continuing through the disability rights project and/or the current funding running out. Goals set for the continuity of the programme must be clear, transparent and measurable. *Supposing OSISA and FOSI pulls the strings on their funding, will the institution carry on delivering the disability rights module as a permanent feature of the law degree? If so what sort of steps would the university take to ensure that this goal is achieved?* Developing receptivity to ideas from other interested stakeholders may be helped by adopting a robust institution-stakeholder partnership that fosters collaboration of ideas for sustainability as a framework but that too requires role clarity as highlighted in the next recommendation.

2. Clarify the role of the legal aid clinic in the OSISA law schools project

In view of the research findings, the existence and benefits of clinical legal education appears to be an important foundation on which to base the learning experience of the institution's law students. It is therefore advisable that clarity on the role of the legal aid clinic should continue to be emphasised. The research participants would like to keep the legal aid clinic going to maximise the education and service benefits. There is evidence of a commitment to planning and developing the legal aid clinic through the disability rights project. However, focus seem to be directed more towards the development of the disability rights module and the development of expertise through the training of academics who teach on the module rather than on the actual operation of the legal aid clinic itself and the clinicians involved in the day to day running of the clinic.

It could be that the grey area in clarity of the role of the clinic has been influenced, to a certain extent, by the unavoidable adherence, of the law faculty to the requirements of the ring-fenced funding regime set by OSISA and FOSI for which funding is strictly geared towards persons with disabilities. Nevertheless, it is important for the gatekeepers at Case A to develop an understanding and appreciation of the fact that if their clinical programme is to continue being successful as a vehicle for championing the disability rights agenda set by OSISA and FOSI through the disability rights project, there should be in existence a transparent and clearer coordination of the disability rights module, the practical and clinical skills training module, the live-client clinic, the students under the supervision of

the clinicians and indeed the legal practitioners who teach on the two modules. Sequencing of the different aspects of the clinic, the use of interactive clinical pedagogical methodologies and the interaction with clients by students are all ingredients of effective coordination. The legal aid clinic must also take advantage of the current partnership with other regional law schools. Research participants must develop appropriate clinical teaching materials that include problem based learning, simulations and role plays as teaching and learning tools. This can be achieved by soliciting the views of different stakeholders as stated in the following recommendation.

3. Enhance sustainability by soliciting views of different stakeholders

Given that clinical legal education has two missions to accomplish, i.e. education and service delivery, perhaps the time has come for research participants to conduct some large-scale research of their own into the impact of students and indigent community's views on the operation and scope of the institution's legal aid clinic. It is recommended that undertaking research that elicits the views of students will have some considerable perceived impact. The clinic's impact on the education of students would be improved if they get accorded an opportunity to state and develop their own approaches to taking instructions from clients and devise ways of managing their cases. It would be worthwhile for indigent members of the community to have their views documented too not simply as an evaluation study but as an investigation into the value of the disability rights project for persons with disabilities and the outcomes generated by the project. This could go a long way in creating strong network opportunities as highlighted in the next recommendation.

4. Seek and increase opportunities for network and partnership creation

Attending international conferences like the ones that get organised by clinical movements such as the Global Alliance for Justice Education (GAJE) and the International Journal of Clinical Legal Education (IJCLE) must be encouraged throughout the lifespan of the institution's clinical programme. By continuing to attend conferences and sitting in or presenting papers, research participants will undoubtedly learn more from others and improve their own clinical pedagogy skills and knowledge about the global clinical movement. Consistency in conference attendance and workshops organised by such movements and other clinical organisations and networks opens doors of opportunities for invitations to join research projects on clinical education; engage in collaborative funding

applications; get involved in contributing to clinical scholarship by publishing essays, practice papers and journal articles in peer-reviewed academic journals and indeed contributing chapters to edited books such as the one edited by Professor Frank Bloch and entitled: *The Global Clinical Movement: Educating Lawyers for Social Justice*, Oxford University Press, (2011). Networking is also fundamental to future funding opportunities. Even though funding bids and the application process may be transparent and meritocratic, funders will most likely fund a clinic that they know something about. Travelling to international conferences may be costly and there may be time constraints to consider too. However, the benefits of sending delegates to international conferences organised by GAJE and/or IJCLE are bigger than the costs of travel if the delegates know how to get the most out of every conference. Such endeavours may even encourage a regional grouping formation as suggested in the following recommendation.

5. Pursue and advocate for the formulation of a regional clinical movement

The surest way to ensure sustainability of the clinical programme at Case A is the need for the research participants, the faculty and the mother institution to recognise and accept that it is their combined obligation to unite and stand up for the education of their students and the delivery of justice to indigent members of the community. Inclusivity and representation demand that everyone in the region who is involved in clinical education has a role to play and that every clinical programme in the region can identify itself with a clinical organisation representing it. Today the field boasts of a global clinical movement for which the legal aid clinic at Case A is a part of. The research participants must realise that the partnerships they already have with the law schools in Malawi, Zambia, Mozambique, Botswana and South Africa reinforces the need for growing a regional network of clinical law teachers with a commitment to building and strengthening clinical legal education in Southern Africa. By working together under a regional organisation, there is no doubt that such an organisation would go a long way in promoting motivation through certain shared basic concerns about legal education and professional skills in the region. By working together at conferences and workshops organised at regional level, such a regional clinical movement would undoubtedly develop into a network of clinicians. The network would have the capacity to stimulate financial and human resource support for clinic sustainability and the fostering of new programmes, offer support and mentorship as stated in the next recommendation, far beyond the capacity of individual law schools.

6. *Find professional support and mentorship*

A clinical programme will benefit in its development from a viable mutual network mentoring model. The researcher encourages research participants at Case A to engage first and foremost in traditional one-to-one peer mentorship with colleagues from other law schools in the region who also run clinical programmes. Peer mentoring will provide clinicians of equal stature in the form of experience and rank with an opportunity to share interests and collaborate on careers and best practice. Engaging in peer mentoring with other law schools in Malawi, Zambia, Botswana, Mozambique and South Africa will enable the mentoring process to derive from shared experiences of clinicians from same African culture relationships. The equal standing of peer mentors should naturally lend itself to greater psychological benefits particularly in terms of seeking personal support and forging long lasting collegiality and professional friendship. Research participants can also seek out other senior clinicians from other schools with well-established clinical programmes through small group sessions with whom they can discuss their experiences with the disability rights project, compare their lesson plans and gain more knowledge on new theoretical concepts on clinic operation and sustainability strategies. In this way, mentoring will be effective as mentors and mentees become aware of clinical pedagogy principles, teaching strategies and techniques and the differences in orientation and stages of development of the clinic in different contexts.

Team mentorship cultivates an understanding of an institution's characteristics, its culture and resources capability for the development of its clinical programme. Even though team mentoring may take away the mutual mentoring that encourages the clinicians from the less developed clinical programmes to develop various relationships on their own accord and initiative and vests experienced clinicians with the responsibility of fostering relationships, research participants should not be discouraged from travelling far afield to places such as Europe and America to seek mentorship. A mentoring scheme where clinicians share teaching experience with other experienced clinicians in other law schools would be ideal for the research participants at Case A. The mentoring process that the research participants could engage with is one that includes receiving feedback on assessed teaching at the host law school; brainstorming, planning and delivering clinic lessons and being supported throughout the process of constructing a clinical pedagogy lesson plan. However, a point worth mentioning here is that mentorship should not only be focussed on seeking professional support from colleagues in an academic setting. Although research participants at Case A will undoubtedly gain help from fellow clinicians in other law schools, they must also interact with other stakeholders who are not clinicians

but who are interested in championing clinical programmes within law schools as vehicles for social justice and maybe the recommendation suggested below may see the light of day.

7. Turn the clinical programme into a credit-bearing module

Law clinics in general present an excellent opportunity for access to justice and the overall education of law students for future law practice. The research findings have revealed that students engage with clinic work with vigour and enthusiasm. It would be helpful if the compulsory clinical component within the mainstream legal curriculum were turned into a credit-bearing module. In this way, the research participants and the faculty could be assured of a full devotion of sufficient time to clinic work by students. To avoid a situation whereby students might end up being reluctant to submit themselves to formal methods of grading and an examination that will not result in an academic credit, the clinic module must be turned into a credit-bearing one and be run by staff who receive ongoing training as suggested in the following recommendation.

8. Provide further training opportunities for clinical faculty

The new legislative change in the form of a Zimbabwean Constitution in 2013 positively impacts itself upon the recognition of the rights of persons with disabilities. This is the kind of constitutional impact work that can be a direct outgrowth of the legal aid clinic at Case A and not the least to that important category of academic staff, the subject specialist on disability rights. In a normal scenario, the role of the subject specialist is to perform basic functions where extensive subject knowledge is necessary such as, for example, developing and leading on module formulation; giving subject-specific courses in disability rights and more importantly maintaining liaison with relevant stakeholders and funders. The combined effects of having a new constitution which recognises the rights of persons with disabilities and the existence of a legal aid clinic in the form of the disability rights project is that the need for subject specialist with intensive subject knowledge will not diminish. Nevertheless, research participants and the faculty must be reminded that staff come and go as pastures anew arise and as such there is no guarantee that the single clinician who was trained to Master's degree level on disability rights at the University of Pretoria will stay forever at Case A. The success of the legal aid clinic through the OSISA and FOSI funded disability rights project is highly dependent upon the delivery of the

disability rights module by a subject specialist and if that single colleague leaves the university this will have a negative impact on the development of the clinic. To ameliorate the possibility of such an event taking place the gate keepers at Case A must lobby for the training of other members of the academic staff to that level and even to the training of trainers' level suggested in the next recommendation, so that the institution can have a pool of disability rights specialists to fall back on if the current specialist leaves their university post.

9. Propose for a training of trainers' course for regional clinicians

People tend to pay attention in a classroom or workshop session when they know that next time they will be instructors in their own lecture rooms or clinics. By building a culture of constantly attending and participating on training-of-trainer courses the potential to achieve a greater depth of skill retention for the legal aid clinic will be enhanced. It would be helpful if the research participants engage with other law schools in Southern Africa and organise training-of-trainer course to promote an interactive teaching workshop designed for both relatively new clinicians and clinic *gurus* with more experience and then go back to their institution to use and share what they would have learnt at the workshop. Such courses may be used to lobby for change in the regulation of students as suggested in the next recommendation.

10. Advocate for legislative reform to introduce a student practice rule

Literature reviewed demonstrates that it was not only engagement with clients through clinic work that is deemed important in cultivating student enthusiasm in clinical education, the existence of a student practice rule was also viewed as highly relevant in the establishment and sustainability of clinical programmes. The views of the research participants on this issue were consistent with those of the literature. The Law Society of Zimbabwe is clear on its mandate to regulate the practice of law in Zimbabwe. It stipulates that only personnel with practising certificates have the right of audience. Anyone who wants to appear in court as an advocate must be an admitted legal practitioner before being authorised to represent clients and appear in court on their behalf. While these clear training and admission regulations are praiseworthy in their detail and purpose, it may be useful to highlight to the Law Society of Zimbabwe the importance of introducing a student practice rule to allow students to appear in court as student legal representatives during

their undergraduate studies. Allowing law students to appear in court as legal representatives is advantageous since they are likely to sharpen their advocacy skills and gain court experience. Not allowing them the right of audience during their undergraduate studies means that students will only have experienced one context of legal practice through case handling in the clinic. However, being able to relate clinic work to more than one context in the form of advocacy at court allows for a better integration of legal training and a stronger foundation upon which to address the demands of practice and service delivery to indigent communities. The research participants must cement their partnership with different stakeholders which must include amongst other, the various local based non-governmental organisations and disability rights organisation to lobby for a change in regulation for the practice of law in Zimbabwe. They must seek to persuade the Law Society of Zimbabwe to open a professional passage for the students by making a case for the liberalisation of a student practice rule.

This section has offered recommendations from an evaluative perspective on an important aspect of legal education. However, it is important to note that data collection was conducted at a single university and not at the second institution as had been initially planned. As a direct consequence of undertaking empirical research through a single case study methodology, the study encountered several limitations which are considered in the next section.

8.9 Acknowledging the limitations of the doctoral study

One of the limitations of this doctoral study was the construction of the research sample following a fruitless effort at accessing one of the institutions of higher education in Zimbabwe. The research process was initially premised on the belief that fieldwork would take place at two universities where they have been grey literature evidence of clinical activity. Since it was not possible to gain access to the other institution to speak to people who may be involved with the clinic to get their views on the operation of their clinic and to investigate the factors that might have been influential in the establishment and sustainability of their clinical programme, this might be viewed as a limitation that led to a one-sided perspective of the operation of the law clinic in Zimbabwe. Such a limitation also resulted in the exploration of possible strategic options for Case A only. In general, the lack of access to the other institution led to several assumptions that were less well validated than they might have been had access being gained and participants interviewed at the second institution. Nevertheless, the application of a systematic review

of literature method and a grounded theory approach nexus provided a nuanced, empirically rich and holistic amount of the specific clinical legal education phenomena as we now know it in Zimbabwe.

Perhaps a questionnaire to the other institution where access could not be obtained would have added to the doctoral study and made it easier to quantify some of the views particularly those that identify certain factors as influential in the creation and sustainability of law clinics. Collecting information articulating the perspectives of the research participants at that institution would have also allowed the development of the *critical theory* approach. Institutional conflicts, political interference within institutions, fear for victimisation and the power relationships that structure interactions could have been considered. This could be so, particularly if the reason for non-response to the researcher's request for access at the other institution was influenced by internal and external forces that are suspicious of foreign-based researchers undertaking any form of research in a state that some people might view as conflicted and/or fragile. The doctoral study had a singular perspective of the factors that have been influential in the establishment and sustainability of clinical legal education in Zimbabwe and so could not therefore capture these aspects.

In Zimbabwe, there are currently three universities with faculties of law and of these only one has a functional legal aid clinic as depicted in the research findings. The existence and functionality of the legal aid clinic at the other institution is yet to be established. The third faculty of law is yet to introduce a clinical programme. Access to enter and interview participants was only successfully gained at Case A. Since only a single case was considered due to circumstances beyond the researcher's control, it could possibly be opined that the research findings cannot be generalised to the context in which the other legal aid clinic operates to develop a pluralist perspective on the factors that have been influential in the establishment and sustainability of clinical legal education in Zimbabwe. Even though it is a stated fact that this doctoral study concentrated only on the empirical data that was collected from one institution in Zimbabwe, the specific case contributed new knowledge to the global clinical movement. The question of whether the research findings presented from one single case study as presented in Chapter 7, could be generalised to other situations is not a difficult one to find an answer to. The ideographic nature of this study and the revelatory benefits that accrued from a single case study calls into question the requirements of generalisation in research as addressed in detail in Chapter 5. Regardless of the differential impact of the factors because of the difference in context, some of the results of the empirical research carried out through a single case study agree with the review findings. This doctoral study confirms various factors known

from literature. Research participants perceive the availability of financial and human resources or lack thereof as the most crucial factor highly influential in the establishment and sustainability of a clinical programme. This too was the predominant view of the reviewed literature. Nevertheless, there are opportunities for further empirical research in the field as suggested in the next section.

8.10 Suggestions on potential areas of further research

The potential for further research in clinical legal education is extensive and multifaceted. To generate achievable financial and human resources strategies and the expansion of clinical programmes within law schools, there is need for more case studies to allow further assessment of dimensions of clinical legal education. Exploring the following as future research strategies can facilitate the attainment of this vital goal and contribute immensely to the overall growth of the global clinical movement.

Clinical legal education researchers need to continue conducting empirical research to ascertain the factors that contribute to the development of clinical programmes within law schools. Even though the research utilised a single case study methodology in identifying factors that have been influential in the creation and sustainability of clinical legal education in Zimbabwe, the approach was not only unavoidable but proved effective in contributing new to knowledge to the global clinical movement. The doctoral study has laid the foundation upon which further research can be undertaken to investigate the operation of the legal aid clinic in other institution in Zimbabwe if indeed such a programme is operational.

Firstly, researchers should identify the types of factors that contribute to the development of the legal aid clinic at the other institution in Zimbabwe where there is evidence of clinical activity but not yet a comprehensive study evidencing any clinical activity there. As literature, has revealed, similar clinical pedagogies and methodologies exist across jurisdictions and it is therefore suggested that it would be worthwhile exploring how the legal aid clinic operates at the other institution where access was sought by the researcher but the request was not responded to by the said institutions' gatekeepers. By so doing an opportunity will therefore exist for identifying why the legal clinic was established and how it can be sustained if indeed it is in existence as the institution's website acknowledges. It is also suggested that it would be valuable to undertake empirical research at the other institution to understand the factors that might have made it overtly passive as confirmed by its former students in the form of research participants.

There are several strategies that a failing clinical programme might want to consider and utilise to rise from the rubble and be operational again. Investigating whether certain strategies may apply to the legal aid clinic at the other institution may allow researchers and those involved in the operation of the clinic there to develop further insights into the issues affecting the clinical programme and the impact those issues have on sustaining it.

Secondly, researchers should determine what types of factors influence students and other different stakeholders to engage in the development of clinical programmes within law schools. Understanding the various factors that are relevant to consider in sustaining clinical programmes from the context of other stakeholders particularly students and members of the indigent communities is another fruitful area for further exploration as the critique of the literature in Chapter 4 has shown. Such research would undoubtedly have an impact on the positive feedback on the maximisation of benefits of clinical legal education from the perspective of students and the community as highlighted in the following section.

8.11 Biographical reflection

Undertaking the research on clinical legal education, albeit from a Zimbabwean perspective, has been an invaluable experience for the researcher. The iterative nature of the research allowed the researcher to gain some understanding of the global clinical movement, the nature of research and to experience the research thought processes involved. Even though there were times the researcher felt that his research activity was immensely rewarding and exhilarating, what he learnt throughout his research journey was that sometimes things do not normally fall into places where he would have wanted them to fall into and fit neatly together to form what he would have initially planned. However, undertaking research of this nature and at such a scale has provided the researcher with an opportunity to re-examine his professional values and to set upon a path for further involvement with research on issues pertaining to clinical legal education, social justice, public interest litigation and the rule of law. As there is a gap on empirical research that involves the views of other stakeholders such as students for example, the researcher intends to explore further the impact of stakeholder views on the mission and education objectives of clinical legal education. Soliciting the views of other stakeholders will enhance the evaluation of the clinical component and establish relationships that the researcher is now aware of and consider as an important element in sustaining a clinical programme. The researcher hopes, therefore, that this doctoral study not only opens

doors for further research on global clinical movement topics but lends itself as a wealth of resource from which we can all learn about factors that are influential and hence relevant to consider in our endeavours to establish clinical programmes and sustain those that are already in existence. Despite some minor divergences with what has been reported in clinical scholarship, unsurprisingly due to context and local needs, the case study research agrees with the prevailing and persistent theoretical debates. Amongst other important factors to be considered, financial and human resources remain the single factor highly influential in either promoting or impeding the establishment and sustainability of clinical programmes. As has been seen the key findings of this doctoral study are that, in general, the identified factors from the case study were broadly similar to the various factors that the researcher had initially identified from the systematic review undertaken before fieldwork commenced in May 2015. However, the differential impact of factors in the Zimbabwean context was revealed, suggesting a more complex model than was first envisaged following the review findings.

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LIST OF APPENDICES

Appendix 1: Informed Research Participants Consent Form



Faculty of Business and Law

Title of Study:	<i>A systematic review of factors influential in the establishment and sustainability of clinical programmes and a grounded theory explication of a clinical legal education case study in Zimbabwe</i>
Person(s) conducting the research:	Tribe Mkwebu
Programme of study:	PhD in Law (Research)
Address of the researcher for correspondence:	University of Northumbria Faculty of Business and Law Northumbria School of Law Newcastle upon Tyne NE1 8ST United Kingdom
Telephone:	00447723306502
E-mail:	tribe.mkwebu@northumbria.ac.uk
Description of the broad nature of the research:	1. Background I am Tribe Mkwebu, and I am a PhD in Law Research student at

	<p>the University of Northumbria, Newcastle upon Tyne, United Kingdom. I am undertaking research which might help your university do more to help your law students gain practical experience before they graduate and go into practice as legal practitioners.</p> <p>My desire to research into clinical legal education is as a result of my own experiences both in legal education and legal practice. I am spurred by the desire to see law students experiencing the practicalities of the law in the real world as part of a wider legal curriculum leading to a legal qualification and into practice.</p> <p>Many law schools around the globe are introducing and/or running such programmes and contributing to the global clinical movement phenomena. However, there are still issues to consider in establishing and sustaining clinical programmes in some other jurisdictions, hence this research.</p> <p>The research objective of this proposal is to investigate the terrain and assess the positive and negative aspects of the Zimbabwean context in relation to clinical legal education programmes and make a contribution to research on clinical legal education by testing the issues that affect the introduction, implementation and maintenance of clinical programmes.</p>
<p>Description of the involvement expected of participants including the broad nature of questions to be answered or events to be observed or activities to be undertaken, and</p>	<p>2. Selection of Participants</p> <p>I want to talk to you and up to 11 other members of staff at your university including university leaders, faculty of law leaders, programme leaders and lecturers about what factors you think affect the establishment and sustainability of clinical programs and what you need to creatively do to deal with such issues.</p> <p>3. Voluntary Participation</p>

<p>the expected time commitment:</p>	<p>I know that the decision to share information can be difficult when it involves someone outside of your organisation. It can be especially hard when the research includes sensitive topics. You can ask as many questions as you like and I will take the time to answer them and reassure you of your safety in participating in my research.</p> <p>4. Procedure</p> <ul style="list-style-type: none"> • Interviews <p>You will participate in an interview with me and no one else. The discussion will start with me, making sure that you are comfortable. I will also answer questions about the research that you might have. Then I will ask questions about the legal education at your university and the impact your curriculum has in the community you serve as an institution. We will talk about where your students go for externships, if any, and whether you get the information and value about your students' participation in externships. I will encourage you to talk about the difficulties you have in running and expanding your clinical programs, if any. I will ask questions in relation to the establishment of clinical programs if you have none in existence. These are the types of questions I will ask.</p> <p>I will not ask you to share personal stories or anything that you are not comfortable sharing. If you do not wish to answer any of the questions during the interview, you may say so and I will move on to the next question. The interview will take place in private and no one else except you and I will be present. The entire interview will be tape-recorded, but no-one will be identified by name on the tape. The tape will be kept under lock and key. The information recorded is confidential, and no one else, except me, will have access to the tapes. No one else will be allowed to listen to the tapes. The tapes will be destroyed 3 years after the completion of my PhD programme.</p>
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	<ul style="list-style-type: none"> • Examination of publicly accessible records/documents <p>I request to have access to any documentation, books and/or any publications on legal education at your university that you feel may assist me with my research. Please note that documents to be examined will be those that are readily available to the public including any literature that is already an accessible open source. It is not intended here to request any documentation that has sensitive information. You are not obliged to allow access to any documents or materials that you feel may contain sensitive information. The purpose of examination of publicly accessible documents is only to corroborate evidence gathered from interviews.</p> <ul style="list-style-type: none"> • Observations <p>It is my intention to visit your organisation. Please be assured that my visit is only intended for the purposes stated in this document and nothing else. My visit brings with it a 'light touch' to your organisation and is intended to make everyone feel comfortable and relaxed. However, it is only natural that during my visit, I will look at my surroundings and the research environment as a result of impulse or inclination and without premeditation or external stimulus. I will of course come across site buildings. I may be shown around your university and indeed your faculty of law lecture theatres and offices and that information may form part of my research journal.</p> <p>Please note that I am not in any way asking to undertake any activity that entails a structured and formal observation and description of human behaviour at your university. In this research, observation will only be limited to the research environment and surroundings. It is only intended to form part of a research journal that could be useful in corroborating data collected through other methods such as interviews and examination of publicly accessible records and documents.</p>
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5. Duration

I am asking you to participate in an interview which will take about 1 hour of your time. I can do this outside of work hours. I intend to interview up to 12 people including you. Altogether, I am asking for about 12 hours of your organisation's time which can be spread over a period of one to two weeks.

6. Risks and Discomforts

There is a risk that you may share some personal or confidential information by chance, or that you may feel uncomfortable talking about some of the topics. However, I do not wish for this to happen. You must know that you do not have to answer any question or take part in the interview if you feel the question(s) are too personal or if talking about them makes you uncomfortable. I intend to deal with a moderate sample of around 11 to 12 participants in your organisation in order to maintain confidentiality and reduce the risk of you being identified. Certain discussion of practice may be unique to you and there is a risk that you may be identifiable as a result. If you do not wish this information to be disclosed, you can inform me and I will not disclose this information.

7. Benefits

There will be no immediate and direct benefit to you, although sometimes people find that participating in interviews helps them to reflect on their work in a positive way. In the long run, your participation is likely to help me find out more about the factors affecting the establishment and sustainability of clinical legal education in Zimbabwe and I hope that the findings of the research will help you in finding ways to creatively deal with some of the

	<p>factors identified as a result of the research.</p> <p>8. Reimbursements</p> <p>You will not be provided with any payment to take part in the research.</p> <p>9. Confidentiality</p> <p>Because something out of the ordinary is being done through research in your university and faculty, it will draw attention. If you participate, you may be asked questions by other people in the faculty and university. I will not be sharing information about you outside of the research. The information that I collect from this research project will be kept confidential. Information about your responses that will be collected from the research will be put away and no-one but the researcher will be able to see it. Any information about you will have a number on it instead of your name. Only the researcher will know what your number is and I will lock that information up with a lock and key. It will not be shared with or given to anyone else.</p> <p>10. Sharing of Research Findings</p> <p>At the end of the study, I will be sharing what I have learnt with you and with your university. I will do this by meeting first with you and then with your university. Nothing that you will tell me will be shared with anybody outside the research and nothing will be attributed to you by name. A written report will also be given to you. I will also publish the results in order that other interested people may learn from my research and take it to another level if need be.</p> <p>11. Right to Refuse or Withdraw</p>
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	<p>You may choose not to participate in this study. You do not have to take part in this research if you do not wish to do so.</p> <p>12. Who to Contact</p> <p>If you have any questions you may ask them now or later, even after the study has started. If you wish to ask questions later, you may contact any of the following:</p> <p>Principal Researcher Tribe Mkwebu (PhD Candidate) tribe.mkwebu@northumbria.ac.uk Skype: tribemkw 0044 (0) 7723306502</p> <p>Principal Supervisor Dr Elaine Hall (Reader in Legal Education Research) elaine.hall@northumbria.ac.uk 0044 (0) 1912273153</p> <p>2nd Supervisor Professor Chris Ashford (Professor of Law and Society) chris.ashford@northumbria.ac.uk 0044 (0) 1912273955</p> <p>Module Tutor Carol Boothby (Solicitor, Principal Lecturer and Clinical Director of the Student Law Office) carol.boothby@northumbria.ac.uk 0044 (0) 1912437529</p> <p>This proposal has been reviewed and approved by the Research Ethics Committee at the University of Northumbria, United Kingdom, which is a committee whose task it is to make sure that research participants are protected from harm. If you wish to find</p>
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	<p>more about the Research Ethics Committee, please contact:</p> <p>Ron Beadle (Professor of Organisation and Business Ethics) (ron.beadle@northumbria.ac.uk) 0044 (0) 1912273469</p>
<p>Description of how the data you provide will be securely stored and/or destroyed upon completion of the project.</p>	<p>All data will be kept confidentially. An option of anonymity will be given to you unless you request otherwise. Additionally, individuals that are answering questions from a position of authority or particular standing will be coded and names will be kept separately and securely. All data will be kept in locked cabinets and any computers used will be password protected with an encryption.</p> <p>In order to be compliant with the Northumbria University Data Retention Schedule, my research data will be retained until the completion of my research followed by 3 years.</p> <p>The researcher will always maintain confidentiality throughout the process of retention. After a period of retention, the data will be destroyed. Paper records will be shredded and recycled. Any records stored on any device and/or hard drive will be erased using commercial software applications designed to remove all data from the storage device.</p>

Information obtained in this study, including this consent form, will be kept strictly confidential (i.e. will not be passed to others) and anonymous (i.e. individuals and organisations will not be identified *unless this is expressly excluded in the details given above*).

Data obtained through this research may be reproduced and published in a variety of forms and for a variety of audiences related to the broad nature of the research detailed above. It will not be used for purposes other than those outlined above without your permission.

Participation is entirely voluntary and participants may withdraw at any time.

By signing this consent form, you are indicating that you fully understand the above information and agree to participate in this study on the basis of the above information.

Participant's Signature

Date

Student's Signature

Date

Please keep one copy of this form for your own records

Appendix 2: Informed Organisational Research Consent Form



Faculty of Business and Law
University of Northumbria

Completion of this form is required whenever research is being undertaken by Business and Law staff or students within any organisation. This applies to research that is carried out on the premises, or is about an organisation, or members of that organisation or its customers, as specifically targeted as subjects of research.

The researcher must supply an explanation to inform the organisation of the purpose of the study, who is carrying out the study, and who will eventually have access to the results. In particular issues of anonymity and avenues of dissemination and publications of the findings should be brought to the organisations' attention.

Researcher's Name: Tribe Mkwebu

Student ID No: m914369

Researcher's Statement:

1. Purpose and Background

My name is Tribe Mkwebu. I am a doctoral researcher at the University of Northumbria, Newcastle upon Tyne, United Kingdom. I initially qualified as a teacher from Hillside Teachers College, an associate college of the University of Zimbabwe. I specialised in English and taught in Zimbabwe for several years. In 2001, I moved to the United

Kingdom to undertake studies in Law. I graduated from the School of Law, University of Northumbria, in 2007 with a Bachelor of Laws (LLB) honours degree. I then enrolled for the Post Graduate Diploma in Bar Vocational (PGDip.BVC) at the same institution and graduated in 2009. I was called to the Bar of England and Wales by the Inner Temple as a Barrister-at-Law on the 23rd July 2009. In 2010, I graduated from Northumbria University with a Master of Laws (LLM) degree in Human Rights and Civil Liberties. I am a member of the General Council of the Bar of England and Wales. I am also a member of the Honourable Society of the Inner Temple, London.

My research focuses partly on the delivery of free legal advice and representation to members of the community and partly on the advantages of including a practical clinical element into the pedagogic methodologies within a law school. My interest in this area has been developed through a combination of my experience as a student and indeed as a professional. For several years after my call to the Bar, I assuaged my social conscience by working in high street legal aid law firms offering free legal advice. There, I found a very different type of clientele from the one I imagined and anticipated to advise and represent upon graduation. The areas of law I practised in were areas I never thought I would advise on after graduation. This was because welfare benefits and immigration was not part of the curriculum at both the Law School and the Bar School. As years went by, and just like the proponents of the clinical legal education global movement, I became interested in the question: "Should a law school try to teach students in a legal clinic where they have to deal with problems faced by real clients?"

An analysis of the scholarship and literature review of clinical legal education programmes within law schools reveals quite a number of challenges facing legal clinicians and proponents of clinical legal education in the process of introducing, implementing and maintaining clinical legal education programmes. I want to know the factors influencing the introduction, implementation and maintenance of clinical legal education in Zimbabwe. Although much research has gone into identifying factors influencing the establishment and sustainability of clinical legal education programmes across jurisdictions globally, there has not been any meaningful research focusing on Zimbabwe hence this research.

It is my intention to visit your organisation. Please be assured that my visit is only intended for the purposes stated in this document and nothing else. My visit brings with it a 'light touch' to your organisation and is intended to make everyone feel comfortable and relaxed. Up to 12 participants from your organisation will be interviewed and in addition, I would like to undertake case study examinations of your publicly accessible documents on

the history of your legal education, as decided by the gatekeepers and stakeholders in your organisation.

2. Funding

This research is funded by the Faculty of Business and Law at the University of Northumbria, Newcastle upon Tyne, United Kingdom.

3. Procedure

Interviews

Participation in this project will involve attending one interview that will discuss issues related to the establishment and sustainability of clinical legal education programme. Up to 12 people will be interviewed including university and faculty leaders.

I, the researcher, will be present to interview each member of your organisation. The interview will be conducted in English and will take approximately one hour and will be held at your university premises or where members of your organisation feel free to be interviewed.

The topics to be discussed in the interview will include: development of a clinical education; management of a law clinic; pedagogy for clinic; external and internal factors in sustaining clinical programs. The interview with the participants will be audio-recorded and transcribed for analysis.

Examination of publicly accessible documents and records

I request to have access to any documentation, books and/or any publications on legal education at your university that you feel may assist me with my research. Please note that documents to be examined will be those that are readily available to the public including any literature that is already an accessible open source. It is not intended here to request any documentation that you feel has sensitive information. You are not obliged to allow access to any documents or materials that you feel may contain sensitive information. The purpose of examination of publicly accessible documents is only to corroborate evidence gathered from interviews.

Observation

It is my intention to visit your organisation. Please be assured that my visit is only intended for the purposes stated in this document and nothing else. My visit brings with it a 'light touch' to your organisation and is intended to make everyone feel comfortable and relaxed. However, it is only natural that during my visit, I will take notice of my surroundings and the research environment as a result of impulse or inclination and without premeditation or external stimulus. I will of course come across your site buildings. I may be shown around your university and indeed your faculty of law lecture theatres and offices and that information may form part of my research journal. Please note that I am not in any way asking to undertake any activity that entails a structured and formal observation and description of human behaviour at your university. In this research, observation will only be limited to the research environment and surroundings and is only intended to form part of a research journal that could be useful in corroborating data collected through other methods such as interviews and examination of publicly accessible records and documents.

4. Duration

I am asking your organisation to allow me to spend one to two weeks at your institution to carry out my research. The interviews will last for about an hour with each interviewee. I am therefore asking for about 12 hours of your organisation's time which can be spread over a period of one to two weeks.

5. Possible Benefits

By investigating the factors that affect the introduction, implementation and maintenance of clinical legal education programmes, the findings of this research will offer new insights into your university's legal education curriculum in general and pedagogy in particular. The outcomes of this research may assist in increasing the profile and visibility of your legal education and in creating a more equitable environment for expanding your clinical programmes. I cannot guarantee or promise that you will receive any personal benefits from this research.

6. Possible Risks

Participation is voluntary and confidential, but should members of your organisation feel concerned they may withdraw their consent and end their participation at any stage of the interview.

7. Privacy, Confidentiality and Disclosure of Information

The information gathered in this research will be secured so that it is accessible only to me. The analysis of the data collected will be done in a way that prevents the identification of individuals in the publication of findings. Coded data will be securely stored for the duration of the research and destroyed after final publication of the collected data, as prescribed by the University of Northumbria regulations.

Any information obtained in connection with this research that can identify any member of your organisation will remain confidential. It will only be disclosed with your organisation's permission, subject to legal requirements. However, narrow circumstances may arise where the disclosure of information is required by law and in such instances confidentiality cannot be guaranteed.

If you give me your permission by signing the Consent Form, I plan to publish the results in academic journals.

8. Data Retention and Storage

In order to be compliant with the Northumbria University Data Retention Schedule, my research data will be retained until the completion of my research followed by 3 years.

The researcher will always maintain confidentiality throughout the process of retention. After a period of retention, the data will be destroyed. Paper records will be shredded and recycled. Any records stored on any device and/or hard drive will be erased using commercial software applications designed to remove all data from the storage.

9. Results of Project

It would be my intention to share the overall findings of my research, while of course maintaining the confidentiality of individual informants. I will do this by sending a draft of relevant sections of the thesis to you for comment. Please let me know whether your organisation wants to have existing protocols for being informed when the results of the research become available.

10. Participation is Voluntary

Participation in this research project is voluntary. If you do not wish members of your organisation to take part in the interviews, please let me know as they are not obliged to take part. If any of your members decide to take part and later change their mind, they are free to withdraw from the interview at any stage.

Your members' decision whether to take part or not to take part, or to take part and then withdraw, will not affect any relationship you might have with the researcher or your relationship with the University of Northumbria.

Before your organisation makes a decision, I will be available to answer any questions you might have about the research project. You can ask for any information you want. Sign the Consent Form only after you have had a chance to ask your questions and have received satisfactory answers.

11. Ethical Guidelines

This project will be carried out according to the University of Northumbria's guidelines on research ethics. This statement has been developed to protect the interests of people who agree to participate in social science research studies. The ethics aspects of this research project have been approved by the Research Ethics Committee at University of Northumbria.

12. Complaint

If your organisation has any complaints about any aspect of this research project, the way it is being conducted or any questions about your rights as an organisation, then you may contact:

The Chair of the Research Ethics Committee
University of Northumbria
Professor Ron Beadle (Professor of Organisation and Business Ethics)
ron.beadle@northumbria.ac.uk
0044 (0) 1912273469

12. Reimbursement for your costs

Your organisation will not be paid for allowing its members to be interviewed. Interviewees will not be reimbursed for participating in the research.

13. Further Information, Queries or Any Problems

If you require further information, wish to withdraw your participation or if you have any problems concerning this research please contact the following:

Principal Researcher
Tribe Mkwebu (PhD Candidate)
tribe.mkwebu@northumbria.ac.uk
Skype: tribemkw
0044 (0) 7723306502

Principal Supervisor
Dr Elaine Hall (Reader in Legal Education Research)
elaine.hall@northumbria.ac.uk
0044 (0) 1912273153

2nd Supervisor
Professor Chris Ashford (Professor of Law and Society)
chris.ashford@northumbria.ac.uk
0044 (0) 1912273955

Module Tutor
Carol Boothby (Solicitor, Principal Lecturer and Clinical Director of the Student Law Office)
carol.boothby@northumbria.ac.uk
0044 (0) 1912437529

Any organisation manager or representative who is empowered to give consent may do so here:

Name: _____

Position/Title: _____

Organisation Name: _____

Location: _____

Anonymity must be offered to the organisation if it does not wish to be identified in the research report. Confidentiality is more complex and cannot extend to the markers of student work or the reviewers of staff work, but can apply to the published outcomes. If confidentiality is required, what form applies?

- ☐ No confidentiality required
- ☐ Masking of organisation name in research report
- ☐ No publication of the research results without specific organisational consent
- ☐ Other by agreement as specified by addendum

Signature: _____ Date: _____

This form can be signed via email if the accompanying email is attached with the signer's personal email address included. The form cannot be completed by phone, rather should be handled via post.

Appendix 3: Interview Schedule for Semi-Structured Interview

Legal Education and Professional Skills

May 2015

Thesis Title:

A systematic review of factors influential in the establishment and sustainability of clinical programmes and a grounded theory explication of a clinical legal education case study in Zimbabwe

Interview length: 50-60 minutes

Introduction

My name is Tribe Mkwebu and I am researching on clinical legal education using Grounded Theory. Grounded Theory is a research method specifically designed to abstract data away from any particular person, place or time in order to develop a theory about what factors influence the establishment and sustainability of clinical legal education programmes within a law school. Thank you for willing to take part in an interview in my research on clinical legal education whose goal is to identify factors influential in the establishment and sustainability of a clinical legal education programme. First of all, let me assure you that you, if you wish, will remain completely anonymous and no records of the interview will be kept with your name on them. I will not be using your name nor collect any data that might reveal personal sensitive information.

I would also like to ask you for permission to audio record this interview. The main reason behind this recording is to have a set of accurate data collected through your responses and opinions. The recording of the interview will also facilitate the analysis of the data collected during the course of my research. All interview data will be coded in a way that that it cannot be connected to you. If you do not have any questions I would like to briefly introduce you to the subject of this interview.

As you can see my research is on clinical legal education programmes within law schools. I am particularly interested in identifying influential factors in the establishment and

sustainability of law clinics within universities. These factors are the subject of my research. However, I am particularly interested in those factors that are influential from a local context. In my research for these influential factors, I set no universal standards of resourcing such clinical programmes nor do I set a bar of what I think it is good practice. More precisely, my research is not concerned with investigating the quality of legal education in your institution but, rather it is concerned with your own perceptions and understanding of the factors that you think and believe are so influential in the establishment and sustainability of a law clinic such as your own Legal Aid Clinic.

The interview is really a conversation that will allow you to share your experiences with me. Do you have any questions for me? I am particularly interested in your experiences in (clinical) legal education as (a clinician) an academic. So....

General Questioning

Questions

Introduction – (Grand Tour Question)

Q1 - Tell me, in your own terms, your own view on how best to educate future competent and responsible lawyers.

Probe - Please go on and share with me your own perspectives on the teaching and learning of substantive law through either the traditional lecture/seminar methodology or a legal education curriculum that combines both theory and practice.

Q2 – Do you think clinical legal education is beneficial to the education of law students as future lawyers?

Probe – (if answer does not come out)

Q3 – What do you consider as the main influential factors in the establishment and sustainability of a clinical legal education programme within a law school?

Probe – (Write them down as interviewee responds)

Q4 – Can you explain each of these factors a little more fully?

Probe – (List them down as interviewee responds and use the ‘piggyback’ technique to elicit more information from the interviewee)

Specific Questioning

Questions

Introduction – Q5 - According to the literature reviewed for this research a number of factors have been identified as influential in implementing, establishing and sustaining a clinical programme within a law school. These factors include, among others, the availability or lack thereof of financial and human resources; the integration of a clinical component within a legal education curriculum; the impact of a clinic pedagogy on a research-intensive institution; the attitudes of academic staff towards a clinical pedagogy; the notion that clinical legal education methodologies are untested and unorthodox. Now I would like to ask you a few questions about each of these factors in relation to the Legal Aid Clinic in your institution.

Q6 – the institution’s priorities and availability or lack thereof of financial and human resources

Q7 – the impact of a clinical pedagogy on a research-intensive institution

Q8 – the attitudes of academic staff towards a clinical pedagogy and the notion that clinical legal education methodologies are untested and unorthodox

Q9 – the integration and development of a clinical component within a legal education curriculum

Q10 – the retention of clinical staff at the institution and faculty levels

Q11 – the selection of students for the clinical component

Q12 – the reconciliation of the inherent conflict between clinical legal education's objectives of serving a community and providing quality education to students

Q13 – the institution's partnership with other stakeholders and the relationship between a legal academy and the legal profession

Q14 – the jurisdictional policy on higher education and the government's wider legal services policy agenda

Q15 – the institution's policy on community engagement

Q16 – the impact of socio-economic and cultural issues

Q17 – Are there any other influential factors which you feel we have not yet addressed in relation to the sustainability of your Legal Aid Clinic?

Probe – Can you please tell me more about these factors (researcher to list them down as interviewee responds)

Closure

We seem to have covered a great deal of ground and you have been very patient. But do you think there is anything we have missed out? Do you have any other comments about what we have discussed, or about the research? Do you want to see a transcript of the interview? I will send you a summary of the research findings some time towards the end of 2016, probably around December. You are also welcome to have a full copy of the final research thesis too.